GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

THE CODE OF CRIMINAL PROCEDURE, 1898
(ACT V OF 1898)

AS MODIFIED UP TO 1st May 1920.

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Act XIII of 1916, s 2 and Sch
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Section 365 amended, Act VI of 1900, s 47 and Sch I
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Section 392 (2) amended, Act IV of 1909, s 7
Section 471 (1), (4) repealed in part, Act X of 1914, s 3 and Sch II
Section 472 repealed, Act IV of 1912, s 101 and Sch II
Section 484 amended, Act X of 1914, s 2 and Sch I
Section 487 repealed in part, Act VI of 1900, s 48 and Sch II
Section 555 amended, Act I of 1903, Part II, Sch II
Act XIII of 1916, s 2 and Sch
Schedule I repealed, Act X of 1914, s 3 and Sch II
Schedule II amended, Act XII of 1899, s 3
Act I of 1903, Part II [illegible]
[illegible] of 1913, s 6 and Sch
Schedule IV [illegible] IV [illegible] 1909, s. 8 and Sch
Schedule V am[illegible] II, Sch II

[illegible]*ay Town only*

Ch[illegible] IX.
Fe[illegible] (2) an[illegible] IV of 1902, s 2 (1) and Sch A

THE CODE OF CRIMINAL PROCEDURE, 1898.

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ACT No. V of 1898.[1]

[*22nd March, 1898*]

An Act to consolidate and amend the law relating to Criminal Procedure.

(As modified up to 1st May, 1920.)

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure;

It is hereby enacted as follows —

PART I.

PRELIMINARY.

CHAPTER I.

Short title. Commencement. Extent.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July 1898.

(*2*) It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt V, p 363, for Report of the Select Committee, *see ibid*, 1898, Pt V, p 19, and for Proceedings in Council, *see ibid*, 1897, [illegible]

[illegible] as amended by the San [illegible] B and O Code.

It has been extended, under s 3 of the Angul Laws Regulation, 1913 (III of 1913), B and O Code, to the District of Angul

[illegible] Burma (except the Shan States, as to which [illegible] the Burma Laws Act, 1898 (XIII of 1898), [illegible] Upper Burma Criminal Justice Regulation, 1898, Bur Code [illegible] Hill District, by s 2 of the Arakan Hill District Laws Regulation, 1916 (I of 1916)

It has been declared in force in the Chittagong Hill tracts (with a reservation as to cases tried by certain persons) by s 4 of the Chittagong Hill tracts Regulation, 1900 (I of 1900), Ben. Code

[illegible]

affect any special or local law now in force, or any special jurisdiction or power[1] conferred, or any special form of procedure prescribed, by any other law for the time being in force,[2] or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay,[3]

(*b*) heads of villages in the Presidency of Fort St. George,[4] or

(*c*) village police officers in the Presidency of Bombay.[5]

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor General in Council by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. [*Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.*] *Repealed by the Repealing and Amending Act, 1914* (*X of 1914*).

References to Code of Criminal Procedure.

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of

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the Scheduled Districts
Vizagapatam—*see* Fort
) Pt. I, p. 869 and by
owing other Scheduled

the Districts of Házáribágh, Lohardaga (now the Ranchi District—*see* Calcutta Gazette 1899, Pt. I, p. 44), Mánbhum and Palamau and in Pargana Dhalbhum and the Kolhan in the Singbhum District—*see* Calcutta Gazette, 1898, Pt. I, p. 714 and Gaz
see Gazette of
were at the sar
and also thos

Code

[1] As to power of Governor General in Council to make rules conferring powers of original criminal ... ourts Act, 1887 (XIV of 18

[2] *See* for exa ... Vol. VII

[3] As to Calc ... 866) Ben. Code as to Mad ... 888) Mad. Code, as to Bom ... of 1902), Bom. Code.

[4] *See* Mad. Regulation XI of 1816, Mad. Code and Mad. Regulation IV of 1821, *ibid.*

[5] *See* the Bombay Village Police Act, 1867 (Bom. Act VIII of 1867), Bom. Code.

and other repealed enactments.

1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section

Expressions in former Acts

(2) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class" "Magistrate of the second class' and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub divisional Magis trate,' the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police' shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge' shall mean "Additional Sessions Judge"

Definitions

4 (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context —

Advocate General

(a) "Advocate General" includes also a Government Advocate or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf

Bailable offence Non bail able offence

(b) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force, and "non bailable offence' means any other offence

Charge

(c) "charge" includes any head of charge when the charge contains more heads than one

Chief Justice

(d) "Chief Justice" includes also [1]******* the [2][Chief or Senior Judge of the Chief Court of Lower Burma],

Clerk of the Crown."

(e) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown

Cognizable offence" Cognizable case

(f) "cognizable offence means an offence for and "cognizable case" means a case in which a police officer, within or without the presidency towns, may, in accordance with the second schedule or under any law for the time being in force arrest without warrant

Commis sioner of Police "

(g) "Commissioner of Police" includes a Deputy Commissioner of Police

[1] [illegible] were repealed

[2] [illegible] by the Lower [illegible] Code

"Complaint."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer:

"European British subject."

(*i*) "European British subject" means—

(*i*) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal;

(*ii*) any child or grand-child of any such person by legitimate descent:

"High Court"

(*j*) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects,[1] the High Courts of Judicature at Fort William, Madras [2]* Bombay, [3][Allahabad [4]* Patna] [5][and Lahore] and the [6][Chief Court of Lower Burma]: in other cases "High Court" means the highest Court of criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf:[7]

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[1] *See* Chapter XXIII, *infra.*

[2] The word "and" was omitted by s. 2 and Schedule of the Amending Act, 1916 (XIII of 1916), Genl. Acts, Vol. VIII.

[3] These words were substituted for the words "the High Court of Judicature for the [illegible] and Schedule of the Amending Act, 1916 (XIII of [illegible] by the Repealing and Amending Act, 1919 (XVIII [illegible]

[illegible] Punja[illegible] by the [illegible] of 18[illegible] Code; [illegible] 1933), [illegible] of 18[illegible] 1877 [illegible] (I of [illegible] amen[illegible] s. 6 [illegible] of 19[illegible] Britis[illegible]

(*k*) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court: "Inquiry"

(*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf "Investigation"

(*m*) "judicial proceeding"[1] includes any proceeding in the course of which evidence is or may be legally taken on oath "Judicial proceeding"

(*n*) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant: "Non cognizable offence" "Non cognizable case"

(*o*) "offence" means any act or omission made punishable by any law for the time being in force, "Offence"

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871[2]

(*p*) "officer in charge of a police-station"[3] includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police officer so present Officer in charge of a police station

(*q*) "place" includes also a house, building, tent and vessel "Place"

(*r*) "pleader," used with reference to any proceeding in any Court, means a pleader authorized under any law[4] for the "Pleader"

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[1] *Cf* the Indian Penal Code (Act XLV of 1860) s 193, *explanation* 1, General Acts, Vol I

[2] General Acts, Vol II

[3] *Cf* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule Arts 6 and 7, Bur Code

[4] [illegible]

time being in force to practice in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding

"Police-station"

(*s*) "police station" means any post or place declared, generally or specially, by the Local Government to be a police station, and includes any local area specified by the Local Government in this behalf

"Public Prosecutor"

(*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction

"Sub division"

(*u*) "sub division" means a sub division of a district [1]

"Summons case"

(*v*) "summons case" means a case relating to an offence, and not being a warrant case and

"Warrant-case"

(*w*) "warrant case" means a case relating to an offence, punishable with death, transportation or imprisonment for a term exceeding six months

Words referring to acts

(*2*) Words which refer to acts done, extend also to illegal omissions, and

Words to have same meaning as in Indian Penal Code

all words and expressions used herein and defined in the Indian Penal Code [2] and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code XLV

Trial of offences under Penal Code

5 (*1*) All offences under the Indian Penal Code[2] shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained XLV

Trial of offences against other laws

(*2*) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences

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[1] See s 8 *infra*

[2] General Acts Vol I

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

A —Classes of Criminal Courts

[1]6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely — Classes of Criminal Courts

I —Courts of Session
II —Presidency Magistrates
III —Magistrates of the first class
IV —Magistrates of the second class
V —Magistrates of the third class

B —Territorial Divisions

[2]7. (*1*) Every province (excluding the presidency towns) shall be a sessions division, or shall consist of sessions divisions and every sessions division shall, for the purposes of this Code, be a district or consist of districts Sessions divisions and districts

(*2*) The Local Governments[3] may alter the limits or, with the previous sanction of the Governor General in Council, the number of such divisions and districts Power to alter divisions and districts

rce cases may be tried by a (III of 1901), s 11, P and xecuting sentences passed on before any of these Courts
see same Regulation, s 15

[2] As to Courts of Session in Upper Burma *see* Upper Burma Criminal Justice Regulation, 1892 (V of 1892) Schedule art 11 Bur Code

[3] For notification dividing the districts of the North West Frontier Province into

Existing divisions and districts maintained till altered.

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts.

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

Power to divide districts into sub-divisions.

8. (*1*) The Local Government[1] may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

Existing sub-divisions maintained.

(*2*) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

Court of Session.

9.[2] (*1*) The Local Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court.

(*2*) The Local Government may, by general or special order in the official Gazette,[3] direct at what place or places the Court of Session shall hold its sitting, but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

For notification by the Government of Bombay directing that the Panch Mahals District shall form part of the Broach Sessions Division, *see* Bom. R. and O.

For notification declaring that the Darjeeling District shall be included within the limits of the Purnea Division, *see* Ben. R. and O.

For notification by the Chief Commissioner, Central Provinces, declaring that certain estates shall be included in the Bilaspur and Raipur Districts of the Chhattisgarh Division, *see* C. P. R. and O.

For notification by the Chief Commissioner of Assam extending the limits of the Sessions Division of the Assam Valley Districts so as to include the tract transferred from the Naga Hills to the Sibsagar District, *see* Assam R. and O.

[1] For notifications *see* Ben. R. and O., B. and O. R. and O., Bom. R. and O., Bur. R. M., C. P. R., and O., Mad. R. and O., Punj. R. and O. and U. P. R. and O.

[2] For notifications under this sub-section *see* Bom. R. and O., Bur. R. M., Punj. R. and O., Mad. R. and O. and U. P. R. and O.; for notifications by the Chief Commissioner of the North-West Frontier Province, *see* Gazette of India, 1901, Pt. II, p. 1136; for notification for Coorg appointing the Commissioner to be Sessions Judge, *see* Coorg R. and O.; for the Pargana of Manpur, *see* Gazette of India, 1913, Pt. I, p. 1587.

[3] For notifications under this sub-section, *see* Ben. R. and O., B. and O. R. and O., C. P. R. and O., Punj. R. and O., Mad. R. and O. and U. P. R. and O.

(Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter II.—Of the Constitution of Criminal Courts and Offices.)

(3)[1] The Local Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

District Magistrate.

10. *(1)* In every district outside the presidency-towns the Local Government shall[2] appoint a Magistrate of the first class, who shall be called the District Magistrate.

(2) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate for a period not exceeding six months, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code as the Local Government may direct.

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. *(1)*[3] The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns, and the Local Government or the District Magistrate, subject to the control of the Local Government, may from time to time define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

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[1] For notification under this clause appointing an Assistant Sessions Judge in British Baluchistan, see Bal. R. and O.

[2] For officers vested with the powers of a District Magistrate in Ajmere-Merwara, see Aj. R. and O.; in the Pargana of Manpur, see Gazette of India, 1913, Pt. II, p. 1587.

[3] For notification by the Government of Bengal under this section, see Ben. R. and O.; by the Chief Commissioner, Ajmer-Merwara, see Aj. R. and O.; by the Chief Commissioner, Coorg, see Coorg R. and O.; by the Government of Burma, see Bur. R. M.

Power to put Magistrate in charge of sub division

13. (*1*) The Local Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires

(*2*) Such Magistrates shall be called Sub divisional Magistrates.

Delegation of powers to District Magistrate

(*3*) The Local Government may delegate its powers under this section to the District Magistrate [1]

Special Magistrates

14. (*1*) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency-towns

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such terms as the Local Government may by general or special order direct

(*3*) With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub section (*1*)

(*4*) No powers shall be conferred under this section on any police officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force [2]

Benches of Magistrates

15. [3](*1*) The Local Government may direct any two or more Magistrates in any place outside the presidency towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit

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[illegible]

Assam Code

As to conferment of magisterial powers on police officers in Upper Burma see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892) Schedule art III, in the Salween and Arakan Districts, see the Burma Laws Act, 1898 (XIII of 1898), s 9, Bur Code

As to the Police on the Punjab Frontier and in the North West Frontier Province see the Punjab Frontier Police-officers Regulation 1893 (VII of 1893), s 1, P and N W F Code

[4] For notifications, see Mad R and O

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class

Powers exerciseable by Bench in absence of special direction

16 The Local Government may,[1] or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects —

Power to frame rules for guidance of Benches

(a) the classes of cases to be tried,
(b) the times and places of sitting,
(c) the constitution of the Bench for conducting trials,
(d) the mode of settling differences of opinion which may arise between the Magistrates in session

17 (1) All Magistrates appointed under sections 12, 13 and 14 and all Benches constituted under section 15 shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches, and

Subordination of Magistrates and Benches to District Magistrate

(2) Every Magistrate (other than a Sub divisional Magistrate) and every Bench exercising powers in a sub division shall also be subordinate to the sub divisional Magistrate, subject however to the general control of the District Magistrate

to Sub divisional Magistrate

(3) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction and he may from time to time make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges

Subordination of Assistant Sessions Judges to Sessions Judge

(4) The Sessions Judge may also when he himself is unavoidably absent or incapable of acting make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or if there be no Additional or Assistant Judge by the District Magistrate and such Judge or Magistrate shall have jurisdiction to deal with any such application

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided

[1] For instance of such rules see Mad R and O Assam R and O Ben P and O Bur R M C P R and O

D—Courts of Presidency Magistrates

Appointment of Presidency Magistrates

18 (*1*) The Local Government shall from time to time appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency towns and shall appoint one of such persons to be Chief Presidency Magistrate for each such town

(*2*) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate or by a salaried Presidency Magistrate or by any other Presidency Magistrate empowered by the Local Government to sit singly or by any Bench of Presidency Magistrates

Benches

19 Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench

Local limits of jurisdiction

20 Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law[1] for the time being in force for the regulation of ports and port dues

Chief Presidency Magistrate.

21 (*1*) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate and may from time to time with the previous sanction of the Local Government make rules[2] consistent with this Code to regulate—

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town

(*b*) the times and places at which Benches of Magistrates shall sit,

(*c*) the constitution of such Benches,

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session, and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him

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[1] *See* the Indian Ports Act 1908 (XV of 1908) General Acts Vol VI

[2] For rules under this section *see* Mad R and O Bom R and O and Ben. R and O

(2) The Local Government may, for the purposes of this Code, [1]declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace

22. The Governor General in Council, so far as regards the whole or any part of British India outside the presidency towns, Justices of the Peace for the mufassal

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit Justices of the Peace for the presidency towns

24. (1) Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns Present Justices of the Peace

(2) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

[2]25. In virtue of their respective offices, the Governor General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor General, [3][and the Judges of the High Courts] are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates *Ex officio Justices of the Peace*

[1] For notification under this sub section affecting the Presidency Magistrates in Calcutta, *see* Ben R. and O

[2] *Cf* the East India Company Act, 1772 (13 Geo III, c 63), s 33 Coll Stat, Vol. I

[3] These words were substituted for the words "the Judges of the High Courts and the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (VI of 1900), s 47 and First Schedule, Bur Code

F.—Suspension and Removal.

Suspension and removal of Judges and Magistrates.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

Suspension and removal of Justices of the Peace.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

Powers of Courts.

A.—Description of Offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code any offence under the [1]Indian Penal Code may be tried— XLV

(a) by the High Court, or

(b) by the Court of Session, or

(c) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws.

29. (1) Subject to the provisions of section 447, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by High Court or by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

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[1] General Acts, Vol. I.

Offences not punishable with death.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab[1] and Burma and the Chief Commissioners of Oudh,[2] the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class, with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and Sessions Judges may pass.

31. (*1*) A High Court may pass any sentence authorized by law.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law, but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.[3]

(*3*) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

Sentences which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences, namely:—

(*a*) Courts of Presidency Magistrates and Magistrates of the first class.	[illegible]
(*b*) Courts of Magistrates of the second class.	Imprisonment for a term not exceeding six months including such solitary confinement as is authorized by law.[4] Fine not exceeding two hundred rupees. [5] * * * * *
(*c*) Courts of Magistrates of the third class.	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

(*2*) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

[5]* * * * * * *

[1] These territories included at the time the Code was passed, the territories which now form the North West Frontier Province.

[2] This title now merges in that of the Lieutenant-Governor of the United Provinces of Agra and Oudh: *see* Proclamation No. 696-P., dated 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228.

[3] *See s.* 374, *infra*.

[4] *See* the Indian Penal Code (Act XLV of 1860), *ss.* 73 and 74: General Acts, Vol. I.

[5] The words "Whipping (if specially empowered)" in sub-section (*1*) and sub-section (*3*) of section 32 were repealed by the *Whipping Act*, 1909 (IV of 1909): *General Acts*, Vol. VI, Appendix.

Power of Magistrates to sentence to imprisonment in default of fine

Proviso as to certain cases

33 (*1*) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code,

(*b*) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine

(*2*) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32

Higher powers of certain District Magistrates

34 The Court of a Magistrate specially empowered under section 30 may pass any sentence authorized by law except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years

Sentence in cases of conviction of several offences at one trial.

35 (*1*) When a person is convicted at one trial of two or more distinct offences the Court may sentence him for such offences to the several punishments prescribed therefor which such Court is competent to inflict, such punishments when consisting of imprisonment or transportation to commence the one after the expiration of the other in such order as the Court may direct unless the Court directs that such punishments shall run concurrently

(*2*) In the case of consecutive sentences it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court

Maximum term of punishment

Provided as follows —

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34) the aggregate punishment shall not exceed twice the amount of punishment which he is, in the excercise of his ordinary jurisdiction, competent to inflict

(3) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence

Explanation —Separable offences which come within the provisions of section 71 of the Indian Penal Code[1] are not distinct offences within the meaning of this section

Illustration

A breaks into a house with intent to commit theft and steals property therein A has not committed distinct offences

C —Ordinary and Additional Powers

[2]36 All District Magistrates, Sub divisional Magistrates and Magistrates of the first second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule Such powers are called their "ordinary powers" Ordinary powers of Magistrates

[2]37 *In addition to his ordinary powers, any Sub divisional Magistrate* or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate Additional powers conferrable on Magistrates.

38 The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government Control of District Magistrate's investing power

D —Conferment, Continuance and Cancellation of Powers

39 (1) In conferring powers under this Code the Local Government may by order empower persons specially by name or in virtue of their office or classes of officials generally by their official titles Mode of conferring powers.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered

40 Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout Continuance of powers of

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[1] General Acts Vol I

a see the Upper Burma Criminal Justice ur Code

powers on classes of Magistrates in (1) of India 1904 Pt II, p 667 (?) the

Officers transferred.

any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

Powers may be cancelled.

41. (*1*) The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrates and police.

42. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid, whether within or without the presidency towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency towns, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Indian Penal Code[1] (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, XLV

[1] General Acts, Vol. I.

393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention

(2) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India

Village headmen, accountants, landholders and others bound to report certain matters

[1]**45** (1) Every village headman, village accountant, village watchman, village police officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is the nearer, any information which he may obtain respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police officer, or in which he owns or occupies land, or is agent, or collects revenue or rent,

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender,

(c) the commission of or intention to commit, in or near such village any non bailable offence or any offence punishable
860 under section 143, 144, 145, 147, or 148 of the Indian Penal Code,[2]

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances,

(e) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any
1860 of the following sections of the Indian Penal Code,[2] namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450 457, 458, 459 and 460,

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property

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[1] This section does not apply to areas in which the Burma Village Act, 1907 (Bur Act VI of 1907) is in force, see s 7 (*) of that Act, Bur Code

[2] General Acts, Vol I

respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(2) In this section—

(i) "village" includes village lands, and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code,[1] namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV

Appointment of village headmen by District Magistrate in certain cases for purposes of this section.

(3) Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

Arrest how made.

46. (1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.[2]

Search of place entered by

47. If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to

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[1] General Acts, Vol. I.

[2] As to addition with which s. 46 is to be read in places in which the Frontier Crimes Regulation, 1901 (III of 1901), is in force, see s. 30 (ii) of that Regulation, P. and N. W. F. Code.

be arrested has entered into or is within any place the person residing in or being in charge of such place shall on demand of such person acting as aforesaid or such police officer allow him free ingress thereto and afford all reasonable facilities for a search therein

Procedure where ingress not obtainable

48 If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape for a police officer to enter such place and search therein and in order to effect an entrance into such place to break open any outer or inner door or window of any house or place whether that of the person to be arrested or of any other person if after notification of his authority and purpose and demand of admittance duly made he cannot otherwise obtain admittance

Breaking open zanáná

Provided that if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who according to custom does not appear in public such person or police officer shall before entering such apartment give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it

Power to break open doors and windows for purposes of liberation

49 Any police officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who having lawfully entered for the purpose of making an arrest is detained therein

No unnecessary restraint

50 The person arrested shall not be subjected to more restraint than is necessary to prevent his escape [1]

Search of arrested persons

51 Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail and

whenever a person is arrested without warrant or by a private person under a warrant and cannot legally be admitted to bail or is unable to furnish bail

the officer making the arrest or when the arrest is made by a private person the police officer to whom he makes over the person arrested may search such person and place in safe custody all articles other than necessary wearing apparel found upon him [2]

Mode of searching women.

52 Whenever it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency

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[1] For penalty for unwarrantable personal violence by a police officer to a person in his custody *see* s 29 of the Police Act 1861 (V of 1861) General Acts Vol I

[2] As to disposal of such property *see* s 523 *infra*

respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

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whenever a person is arrested without warrant or by a private person under a warrant and cannot legally be admitted to bail or is unable to furnish bail

the officer making the arrest or when the arrest is made by a private person the police officer to whom he makes over the person arrested may search such person and place in safe custody all articles other than necessary wearing apparel found upon him [2]

Mode of searching women

52 Whenever it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency

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[1] For penalty for unwarrantable personal violence by a police officer to a person in his custody see s 29 of the Police Act 1861 (V of 1861) General Acts Vol I
[2] As to disposal of such property see s 523 infra

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. (*1*) Any police officer may, without an order from a Magistrate and without a warrant, arrest—

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service;

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881[1] or otherwise, liable to be 44
apprehended or detained in custody in British India; and Vi

[1] Coll. Stat., Vol. I.

[1]*eighthly*, any released convict committing a breach of any rule made under section 565, sub-section (*3*).

(*2*) This section applies also to the police in the town *[2] of Calcutta * * *[2]

[3]**55.** (*1*) Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested— **Arrest of vagabonds, habitual robbers, etc.**

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury

(*2*) This section applies also to the police in the town *[2] of Calcutta * * *[2]

56. (*1*) When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made **Procedure when police officer deputes subordinate to arrest without warrant**

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[1] For some other cases in which the police may arrest without warrant, *see* Index of Indian Statutes, title Criminal Procedure Arrest, Escape and Retaking, and the following Acts—

the Indian Forest Act 1878 (VII of 1878) s 63 General Acts Vol II
the Indian Emigration Act 1903 (XVII of 1903) s 82 General Acts Vol VI,
the Explosives Act, 1884 (IV of 1884) s 13, General Acts, Vol III,
[illegible] Code,

[illegible]) of the City

[illegible] this section
[illegible] Upper Burma
[illegible] North West
[illegible] Regulation,

(2) This section applies also to the police in the town [1] of Calcutta * * * [1]

Refusal to give name and residence.

[2]57. (*1*) When any person who in the presence of a police officer has committed or has been accused of committing a non cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) Should the true name and residence of such person not be ascertained within twenty four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient surties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions.

58. A police officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in British India.

Arrest by private persons.

[3]59. (*1*) Any private person may arrest any person who, in his view, commits a non bailable and cognizable offence, or who has been proclaimed as an offender,

Procedure on such arrest.

and shall, without unnecessary delay, make over any person so arrested to a police officer, or, in the absence of a police officer, take such person to the nearest police station.

(*2*) *If there is reason to believe that such person comes under the* provisions of section 54, a police officer shall re arrest him.

(3) If there is reason to believe that he has committed a non cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions

[1] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) of the [illegible]

[illegible] Upper Burma, see [illegible] s. 57 (*2*) and (*3*) [illegible] Highway Act, 1907 [illegible] (*1*) of the British [illegible]

[illegible] 01) P and N. W. [illegible]

1 Code

of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

[1]60. A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station. Person arrested to be taken before Magistrate or officer in charge of police station.

[1]61. No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court. Person arrested not to be detained more than twenty-four hours.

[1]62. Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant within the limits of their respective stations, whether such persons have been admitted to bail or otherwise. Police to report apprehensions.

[1]63. No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate. Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail,[2] commit the offender to custody. Offence committed in Magistrate's presence.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant. Arrest by or in presence of Magistrate.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India. Power, on escape, to pursue and retake.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66 although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

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[1] *See* note to s. 57, *supra*.
[2] *See* Chapter XXXIX, *infra*.

CHAPTER VI

OF PROCESSES TO COMPEL APPEARANCE

A —Summons

Form of summons

68 (*1*) Every summons[1] issued by a Court under this Code shall in writing in duplicate, signed and sealed by the presiding officer of su Court, or by such [2]other officer as the High Court may, from time time by rule, direct

Summons by whom served

(*2*) Such summons shall be served by a police officer, or, subject such rules as the Local Government may prescribe in this behalf, by officer of the Court issuing it or other public servant

(*3*) This section applies also to the police in the towns of Calcutta a Bombay

Summons how served

69 (*1*) The summons shall, if practicable, be served personally the person summoned, by delivering or tendering to him one of t duplicates of the summons

Signature of receipt for summons

(*2*) Every person on whom a summons is so served shall, if so requir by the serving officer, sign a receipt therefor on the back of the oth duplicate

(*3*) Service of a summons on an incorporated company or other bo corporate may be effected by serving it on the secretary, local manager other principal officer of the corporation or by registered post lett addressed to the chief officer of the corporation in British India such case the service shall be deemed to have been effected when t letter would arrive in ordinary course of post

Service when person summoned cannot be found

70 Where the person summoned cannot by the exercise of d diligence be found, the summons may be served by leaving one of t duplicates for him with some adult male member of his family, in a presidency town, with his servant residing with him, and t person with whom the summons is so left shall, if so required by t serving officer sign a receipt therefor on the back of the other duplica

Procedure when service cannot be effected as before provided

71 If service in the manner mentioned in sections 69 and 70 cann by the exercise of due diligence be effected the serving officer shall af one of the duplicates of the summons to some conspicuous part of t house or homestead in which the person summoned ordinarily reside and thereupon the summons shall be deemed to have been duly served

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[1] For forms *see* Sch V Forms I and XXVI *infra*
[2] For other officers in Ajmere Merwara *see* Aj R and O

Service on servant of Government or of Railway Company

72 (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed, and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section

(*2*) Such signature shall be evidence of due service

Service of summons outside local limits

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is to be there served

Proof of service in such cases and when serving officer not present

74 (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case an affidavit purporting to be made before a Magistrate that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court

B —Warrant of Arrest [1]

Form of warrant of arrest

75 (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates by any member of such Bench, and shall bear the seal of the Court

Continuance of warrant of arrest

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it or until it is executed

Court may direct security to be taken

76 (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody

(*2*) The endorsement [2] shall state—

(*a*) the number of sureties

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[1] These provisions apply to warrants issued under s 10 of the Upper Burma Ruby Regulation 1887 (XII of 1887) *see* sub sec (*) of that section Bur Code

[2] For forms *see* Sch V Form II, *infra*

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound, and

(*c*) the time at which he is to attend before the Court

Recognizance to be forwarded

(*3*) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court

Warrants to whom directed

77. (*1*) A warrant of arrest shall ordinarily be directed to one or more police officers, and, when issued by a Presidency Magistrate, shall always be so directed, but any other Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same

Warrants to several persons

(*2*) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them

Warrant may be directed to landholders etc

78. (*1*) A District Magistrate or Sub divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non bailable offence, and who has eluded pursuit

(*2*) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in or enters on, his land or farm, or the land under his charge

(*3*) When the person against whom such warrant is issued is arrested he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76

Warrant directed to police officer

79 A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed

Notification of substance of warrant

80 The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant

Person arrested to be brought before Court without delay

81 The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person

Where warrant may be executed

82 A warrant of arrest may be executed at any place in British India

Warrant forwarded for execution outside

83 (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police officer, forward the same by post or

otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency town within the local limits of whose jurisdiction it is to be executed jurisdiction.

[1](2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction

Warrant directed to police officer for execution outside jurisdiction

84 (*1*) When a warrant directed to a police officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed

(*2*) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required assist such officer in executing such warrant

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it

(*4*) This section applies also to the police in the town *[2] of Calcutta * * *[2]

Procedure on arrest of person against whom warrant issued

[1]**85** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency town within the local limits of whose jurisdiction the arrest was made or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent

Procedure by Magistrate before whom

[1]**86** (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the

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[1] Sub sec (2) of this section and ss 85 86 and 155 so far as they apply to the police in the Town of Bombay have been repealed by the City of Bombay Police Act, 1902 (Bom Act IV of 1902)—see s 2 (*1*) of that Act Bom Code

[2] The letter s and the words and Bombay were repealed by s 2 (*1*) of the City of Bombay Police Act 1902 (Bom Act IV of 1902) *ibid*

person arrested is brought

Court which issued the warrant, direct his removal in custody to such Court

Provided that, if the offence is bailable and such person is ready and willing to give bail to the satisfaction of such Magistrate District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security,[1] as the case may be, and forward the bond to the Court which issued the warrant

(*2*) Nothing in this section shall be deemed to prevent a police officer from taking security under section 76

C —Proclamation and Attachment

Proclamation for person absconding.

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation[2] requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation

(*2*) The proclamation shall be published as follows —

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides,

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village, and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court house

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with and that the proclamation was published on such day

Attachment of property of person absconding

88 (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person

(*2*) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made, and it shall

[1] *See* Sch V, Form III *infra*
[2] *See* Sch V, Forms IV and V, *infra*.

authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(a) by seizure, or

(b) by the appointment of a receiver, or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf, or

(d) by all or any two of such methods, as the Court thinks fit

(4) If the property ordered to be attached is immoveable, the attachment under this section shall in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(e) by taking possession, or

(f) by the appointment of a receiver, or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf, or

(h) by all or any two of such methods, as the Court thinks fit

(5) If the property ordered to be attached consists of livestock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure [1]

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit

89 If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub Restoration of attached property

[1] *See* now the Code of Civil Procedure 1908 (Act V of 1908), General Acts, Vol VI

section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him

D —Other Rules regarding Processes

Issue of warrant in lieu of or in addition to summons.

90 A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing a warrant[1] for his arrest—

(*a*) if, either before the issue of such summons or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure

Power to take bond for appearance

91 When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court

Arrest on breach of bond for appearance

92 When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him

Provisions of this Chapter generally applicable to summonses and warrants of arrest

93 The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code

[1] *See* Sch. V, Form VII, *infra*.

CHAPTER VII

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

A.—Summons to produce

Summons to produce document or other thing

94. *(1)* Whenever any Court, or in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872,[1] sections 123 and 124, or to apply to a letter, post card, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

Procedure as to letters and telegrams

95. *(1)* If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

[1] General Acts, Vol. II.

B —Search warrants [1]

When search warrant may be issued

96 (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95 sub section (*1*) has been or might be addressed will not or would not produce the document or thing as required by such summons or requisition

or where such document or thing is not known to the Court to be in the possession of any person

or where the Court considers that the purposes of any inquiry trial or other proceeding under this Code will be served by a general search or inspection

it may issue a search warrant and the person to whom such warrant is directed may search or inspect in accordance therewith and the provisions hereinafter contained

(*2*) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document parcel or other thing in the custody of the Postal or Telegraph authorities

Power to restrict warrant

97 The Court may if it thinks fit specify in the warrant the particular place or part thereof to which only the search or inspection shall extend and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified

Search of house suspected to contain stolen property forged documents, etc

98 (*1*) If a District Magistrate Sub divisional Magistrate Presidency Magistrate or Magistrate of the first class upon information and after such inquiry as he thinks necessary has reason to believe that any place is used for the deposit or sale of stolen property

or for the deposit or sale or manufacture of forged documents false seals or counterfeit stamps or coin or instruments or materials for counterfeiting coin or stamps or for forging

or that any forged documents false seals or counterfeit stamps or coin or instruments or materials used for counterfeiting coin or stamps or for forging are kept or deposited in any place

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[1] [illegible] 1882 Mad Act V of 1882 Mad Code and (4) in the rest of British India generally under the Indian Forest Act 1878 (VIII of 1878) see s 71 (c) of the Act General Acts Vol II

he may by his warrant[1] authorize any police officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(2) The provisions of this section with respect to—

(*a*) counterfeit coin,
(*b*) coin suspected to be counterfeit, and
(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens
9 Act, 1889,[2] or brought into British India in contravention of any notification for the time being in force under sec-
1878 tion 19 of the Sea Customs Act, 1878.[3]

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[1] See Sch. V, Form IX, *infra*.
[2] General Acts, Vol. IV.
[3] General Acts, Vol. II.

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act

Disposal of things found in search beyond jurisdiction

99 When, in the execution of a search warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made are found, such things, together with the list of the same prepared under the provisions herein after contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate, and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court

C —Discovery of Persons wrongfully confined

Search for persons wrongfully confined

100 If any Presidency Magistrate, Magistrate of the first class or Sub divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence he may issue a search warrant, and the person to whom such warrant is directed may search for the person so confined, and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate who shall make such order as in the circumstances of the case seems proper

D —General Provisions relating to Searches

Direction, etc, of search warrants

101 The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search warrants issued under section 96, section 98 or section 100

Persons in charge of closed place to allow search

102 (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48

(*3*) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be

made, such person may be searched If such person is a woman, the directions of section 52 shall be observed

103 (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search Search to be made in presence of witnesses

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses, but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it

(*3*) The occupant of the place searched or some person in his behalf shall, in every instance be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request Occupant of place searched may attend

(*4*) When any person is searched under section 102 sub section (*3*), a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person at his request

E —Miscellaneous

104 Any Court may if it thinks fit impound any document or thing produced before it under this Code Power to impound document, etc, produced

105 Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant Magistrate may direct search in his presence

PART IV.

PREVENTION OF OFFENCES

CHAPTER VIII [1]

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

A —Security for keeping the Peace on Conviction

106 (*1*) Whenever any person accused of rioting assault or other offence involving a breach of the peace or of abetting the same or of Security for keeping the peace on conviction.

[1] Ss 20 to 26 of the Sind Frontier Regulation 1892 (III of 1892) Bom Code are to be read with and construed as part of this Chapter—*see* s 27 of the Regulation and s 3 *supra*

assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond[1] for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix

(*2*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void

(*3*) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

B —Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases

107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction

Procedure of Magistrate

(*3*) When any Magistrate not empowered to proceed under sub-

[1] *See* Sch V Form X *infra*

section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons. not empowered to act under sub-section (1)

(*4*) A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate or in anywise abets the dissemination of,— Security for good behaviour from persons disseminating seditious matter

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the
1860 Indian Penal Code,[1] or

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the
1867 Press and Registration of Books Act, 1867,[1] except by the order or under the authority of the Governor General in Council or the Local Government or some officer empowered by the Governor General in Council in this behalf.

(Part IV.—Prevention of Offences. Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.)

Security for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour for habitual offenders.

110. Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker or thief, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(*d*) habitually commits mischief, extortion or cheating or counterfeiting coin, currency notes or stamps, or attempts so to do, or

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.[1]

[1] In Burma ... [illegible] ... Code.

111 The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874 [1] — *Proviso as to European vagrants*

[3]**112** When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section he shall make an order in writing setting forth the substance of the information received the amount of the bond to be executed the term for which it is to be in force, and the number character and class of sureties (if any) required — *Order to be made*

[2] [3]**113** If the person in respect of whom such order is made is present in Court it shall be read over to him or, if he so desires the substance thereof shall be explained to him — *Procedure in respect of person present in Court*

[3]**114** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear or when such person is in custody a warrant directing the officer in whose custody he is, to bring him before the Court — *Summons or warrant in case of person not so present*

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person the Magistrate may at any time issue a warrant for his arrest

[2] [3]**115** Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same — *Copy of order under section 112 to accompany summons or warrant*

[3]**116** The Magistrate may if he sees sufficient cause dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader — *Power to dispense with personal attendance*

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[1] General Acts Vol II

[2] [illegible] an enquiry under s 22 of the Sindh Frontier [illegible] under s 42 of the Frontier Crimes Regula[illegible] Code

[3] [illegible] ring security for good behaviour under the [illegible] Disturbed Districts Regulation 1887 (IX of 188[illegible] — see s 5 (*) Bur Code and under s 6 of the Punjab Frontier Crossing Regulation 1873 (VII of 1873) Punj and N W F Code

Inquiry as to truth of information

[1], [2]**117** (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary

(*2*) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases, and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant cases except that no charge need be framed

(*3*) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise

(*4*) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just

Order to give security

[1]**118** (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties

Discharge of person informed against.

[1]**119.** If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as

[1] *See* the second footnote under s 112 *supra*
[2] *See* the first footnote under s 112 *supra*

the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

[1]**120.** (*1*) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence. Commencement of period for which security is required.

(*2*) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

[1]**121.** The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond. Contents of bond.

[1]**122.** A Magistrate may refuse to accept any surety offered under this Chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person. Power to reject sureties.

[1]**123.** (*1*) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison,[2] or, if he is already in prison, be detained in prison[3] until such period expires or until within such period he gives the security[4] to the Court or Magistrate who made the order requiring it. Imprisonment in default of security.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court, and the proceedings shall be laid, as soon as conveniently may be, before such Court. Proceedings when to be laid before High Court or Court of Session.

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[1] *See* the second footnote under s. 112 *supra*.
Sections 120 to 126 have been declared to apply to the security required under s. 31A [illegible] Code.
[illegible]
[illegible] *see* s. 224 of the Indian Pena[illegible]
[illegible]
[4] *See* Sch. V, Form XV, *infra*.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

Kind of imprisonment.

(5) Imprisonment for failure to give security for keeping the peace shall be simple

(6) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs

Power to release persons imprisoned for failing to give security

[1]124. (1) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required

(3) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged [2]

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour

[1], [3]125. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

[1] See the second footnote under s. 112, supra.
[2] See Sch. V, Form XV, infra.
[3] See note to s. 120 supra.

[1]126. (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction — **Discharge of sureties**

(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him

(*3*) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security Every such order shall, for the purposes of sections 121, 122 123 and 124, be deemed to be an order made under section 106 or section 118 as the case may be

CHAPTER IX [2]

Unlawful Assemblies

127 (*1*) Any Magistrate or officer in charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly — **Assembly to disperse on command of Magistrate or police officer**

(*2*) This section applies also to the police in the town*[3] of Calcutta

* * *[3]

128 If, upon being so commanded any such assembly does not disperse, or if without being so commanded, it conducts itself in such a manner as to show a determination not to disperse any magistrate or officer in charge of a police station, whether within or without the presidency towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian
60 Volunteers Act, 1869,[4] and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons — **Use of civil force to disperse**

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[1] See not ... 120 ...

... he City of Bombay, is repealed ... 902)—see s 2 (*1*) and Schedule ... repealed by s. 2 (*1*) of the City ... Code.

[4] General Acts Vol II

who form part of it, in order to disperse such assembly or that they may be punished according to law.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (1) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869,[1] XX to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter.

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council; and—

(a) no Magistrate or police-officer acting under this Chapter in good faith,

(b) no officer acting under section 131 in good faith,

(c) no person doing any act in good faith in compliance with a requisition under section 128 or section 130, and

(d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

[1] General Acts, Vol. II.

CHAPTER X

PUBLIC NUISANCES

Conditional order for removal of nuisance

133. (*1*) Whenever a District Magistrate,[1] a Sub divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a police report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order[2] requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise; or

to prevent or stop the construction of such building; or

to remove, repair or support it; or

to alter the disposal of such substance; or

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[1] The powers of a District Magistrate under this section may be conferred on Municipal Committees in the Central Provinces, and thereupon the provisions of ss. 133 to 143, both inclusive, with a modification in s. 133 apply to all proceedings taken in exercise of the powers so conferred—*see* the Central Provinces Municipal Act, 1903 (XVI of 1903), s. 107, C. P. Code.

[2] See Sch. V, Form XVI, *infra*.

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to fence such tank, well or excavation, as the case may be, or
to appear before himself or some other Magistrate of the first second class, at a time and place to be fixed by the order, and move have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall called in question in any Civil Court.

Explanation.—A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary and recreative purposes.

Service or notification of order.

134. (1) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury.

135. The person against whom such order is made shall—

(a) perform, within the time specified in the order, the act directed thereby; or

(b) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom was made to appoint a jury to try whether the same reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 13 he shall be liable to the penalty prescribed in that behalf in section 1 of the Indian Penal Code,[1] and the order shall be made absolute.

Procedure where he appears to show cause.

137. (1) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims jury.

138. (1) On receiving an application under section 135 to appoint jury, the Magistrate shall—

(a) forthwith appoint a jury[2] consisting of an uneven number of persons not less than five, of whom the foreman and on

[1] General Acts, Vol. I.
[2] *See* Sch. V, Form XVII *infra*.

half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant,

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit, and

(c) fix a time within which they are to return their verdict

(2) The time so fixed may, for good cause shown, be extended by the Magistrate

Procedure where jury finds Magistrate's order to be reasonable

139.—(1) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any)

(2) In other cases no further proceedings shall be taken under this Chapter

Procedure on order being made absolute

140. (1) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice[1] of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code [2]

Consequences of disobedience to order

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed and may recover the costs of performing it either by the sale of any building goods or other property removed by his order or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found

(3) No suit shall lie in respect of anything done in good faith under this section

Procedure on failure to appoint jury or omission to return verdict

141. If the applicant by neglect or otherwise prevents the appointment of the jury or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit and such order shall be executed in the manner provided by section 140

Injunction pending inquiry

142. (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public he may whether a jury

[1] See Sch V Form XVIII infra
[2] General Acts Vol I

is to be, or has been, appointed or not, issue such an injunction[1] to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section

Magistrate may prohibit repetition or continuance of public nuisance

143 A District Magistrate or Sub divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order[2] any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code[3] or any special or local law

CHAPTER XI

Temporary Orders in Urgent Cases of Nuisance or Apprehended Danger

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger

144 (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate Sub divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order[4] stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot or an affray

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed be passed *ex parte*

[1] *See* Sch V Form XIX *infra*
[2] *See* Sch V Form XX *infra*
[3] General Acts Vol I
[4] *See* Sch V, Form XXI *infra*

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place

(*4*) Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office

(*5*) No order under this section shall remain in force for more than two months from the making thereof, unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs [1]

CHAPTER XII

DISPUTES AS TO IMMOVEABLE PROPERTY

Procedure where dispute concerning land etc, is likely to cause breach of peace

145 (*1*) Whenever a District Magistrate, Sub divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute

(*2*) For the purposes of this section the expression "land or water" includes buildings markets, fisheries crops or other produce of land, and the rents or profits of any such property

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute

Inquiry as to possession.

(*4*) The Magistrate shall then, without reference to the merits of the claim of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible,

[1] For instances of notifications directing certain orders to be made permanent, (1) in Madras see Mad R and O (2) in the United Provinces see U P R and O

decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section

(*5*) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed, and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub section (*1*) shall be final

Party in possession to retain possession until legally evicted

(*6*) If the Magistrate decides that one of the parties was in such possession of the said subject, he shall issue an order[1] declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction [2]

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto

Power to attach subject of disputes

146 (*1*) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach[1] it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof

(*2*) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure [3] XI

Disputes concerning easements etc.

147 Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or water (including any right of way or other easement over the same) within the local limits of his jurisdiction, he may inquire into the matter in manner provided by section 145, and may, if it appears

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[1] *See* Sch V Form XXIII *infra*.
[2] For limitation of suits to recover possession of such property *see* the Indian Limitation Act, 1908 (IX of 1908) Sch I Art 47, General Acts, Vol VI
[3] *See* now the Code of Civil Procedure 1908 (Act V of 1908) General Acts Vol VI

to him that such right exists, make an order[1] permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exerciseable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or, where the right is exerciseable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or occasions before such institution

148 (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid — Local inquiry

(*2*) The report of the person so deputed may be read as evidence in the case

(*3*) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses, or pleaders fees or both, the Magistrate passing a decision under section 145 section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion All costs so directed to be paid may be recovered as if they were fines — Orders as to costs

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CHAPTER XIII

Preventive Action of the Police

149 Every police officer may interpose for the purpose of preventing, and shall to the best of his ability prevent the commission of any cognizable offence — Police to prevent cognizable offences.

150 Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence — Information of design to commit such offences

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[1] *See* Sch V, Form XXIV *infra.*

Arrest to prevent such offences.

151. A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public land-mark or buoy or other mark used for navigation.

Inspection of weights and measures.

153. (*1*) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information in non-cognizable cases.

[1]**155.** (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

[1] This section, so far as it applies to the police in the town of Bombay, is repealed by s. 2 (*1*) and Schedule A to the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

(2) No police officer shall investigate a non cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate

Investigation into non cognizable cases

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case

156 (*1*) Any officer in charge of a police station may, without the order of a Magistrate investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial

Investigation into cognizable cases

(*2*) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate

(*3*) Any Magistrate empowered under section 190 may order such an investigation as above mentioned

157 (*1*) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers to proceed to the spot to investigate the facts and circumstances of the case and to take such measures as may be necessary for the discovery and arrest of the offender

Procedure where cognizable offence suspected

Provided as follows —

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot

Where local investigation dispensed with.

(*b*) if it appear to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case

Where police officer in charge sees no sufficient ground for investigation.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub section

Reports under section 157 how submitted.

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police officer's power to require attendance of witnesses.

160. Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case, and such person shall attend as so required.

Examination of witnesses by police.

161. (*1*) Any police officer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(*2*) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Statements to police not to be signed or admitted in evidence.

162. (*1*) No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence: Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing, and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof; and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872.[1] I of

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the Indian Evidence Act, 1872.

[1] General Acts, Vol. II.

163. (*1*) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872,[1] section 24. No inducement to be offered

(*2*) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

164. (*1*) Every Magistrate not being a police officer may record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial. Power to record statements and confessions

(*2*) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(*3*) No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily, and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

165. (*1*) Whenever an officer in charge of a police station, or a police officer making an investigation, considers that the production of any document or thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is not known to be in the possession of any Search by police-officer

[1] General Acts, Vol. II.

person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached

(*2*) Such officer shall, if practicable, conduct the search in person

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or thing for which search is to be made, and the place to be searched, and such subordinate officer may thereupon search for such thing in such place

(*4*) The provisions of this Code as to search warrants[1] shall, so far as may be, apply to a search made under this section

When officer in charge of police station may require another to issue search warrant

166 (*1*) An officer in charge of a police-station may require an officer in charge of another police station, whether in the same or a different district to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made

Procedure when investigation can not be completed in twenty four hours

167 (*1*) Whenever it appears that any investigation under this Chapter cannot be completed within the period of twenty four hours fixed by section 61, and there are grounds for believing that the accusation or information is well founded, the officer in charge of the police station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused (if any) to such Magistrate

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction

(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing

(*4*) If such order is given by a Magistrate other than the District Magistrate or Sub divisional Magistrate, he shall forward a copy of his

[1] See ss 96 to 99, *supra*

order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate

Report of investigation by subordinate police officer

168 When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station

Release of accused when evidence deficient

169 If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond,[1] with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial

Case to be sent to Magistrate when evidence is sufficient

170 (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial or if the offence is bailable and the accused is able to give security, shall take security[1] from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed

(*2*) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary to execute a bond[1] to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused

(*3*) If the Court of the District Magistrate or Sub divisional Magistrate is mentioned in the bond such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons

(*4*) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken

[1] *See* Sch V, Forms XXV and XXVI respectively

or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

(3) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police officer,

Complainants and witnesses not to be subjected to restraint.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

172. (*1*) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court, but, *if they are used by the police-officer who made them, to* refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872,[1] section 161 or section 145, as the case may be, shall apply. I of

Report of police-officer.

173. (*1*) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who

[1] General Acts, Vol. II.

appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit

[1]**174** (*1*) The officer in charge of a police station or some other police officer specially empowered[2] by the Local Government in that behalf, on receiving information that a person— Police to inquire and report on suicide etc

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted

(*2*) The report shall be signed by such police officer and other persons, or by so many of them as concur therein and shall be forthwith forwarded to the District Magistrate or the Sub divisional Magistrate

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[illegible]

[2] For notifications empowering various police-officers under this section in—

(*1*) Bengal, *see* Ben R and O ,

(*2*) Bombay, *see* Bombay Government Gazette 1909 Pt I p 1135,

(*3*) Madras *see* Mad R and O

(3) When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man[1] appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate especially empowered in this behalf by the Local Government or the District Magistrate.

Power to summon persons.

175. (1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c) of sub-section (1), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer, and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.[2]

[1] For medical men appointed in Ajmer-Merwara see Aj. R. and O.
[2] A similar power is entrusted to the Coroners of Calcutta and Bombay. See the Coroners Act, 1871 (IV of 1871), s. 11, Ben. and Bom. Codes.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct[1] that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861,[2] [3][or section 107 of the Government of India Act, 1915] or under this Code, section 526.

Vict.

o

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X and is during ten days within the local limits of the jurisdiction of Court Y and during ten days more within the local limits of the jurisdiction of Court Z unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

[illegible] local limits of the jurisdiction of Court X and [illegible]ts of the jurisdiction of Court Y, to deliver [illegible] The offence of extortion committed on A may [illegible]

(*d*) A is wounded in the Native State of Baroda and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

[1] For notification directing that all cases in which railway officials are committed for trial in the districts of Sylhet and Cachar may be tried in the sessions division of Cachar, *see* Assam R. and O.

[2] *See* now the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61).

[3] These words and figures were inserted by s. 2 and Schedule of the Amending Act, 1916 (XIII of 1916), General Acts, Vol. VIII.

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Stealing.

(*3*) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Kidnapping and abduction.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain or not in one district only, or where offence is continuing or consists of several acts.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183 An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage

Offence committed on a journey

184 All offences against the provisions of any law for the time being in force relating to Railways,[1] Telegraphs,[2] the Post office[3] or Arms and Ammunition[4] may be inquired into or tried in a presidency town, whether the offence is stated to have been committed within such town or not

Offences against Railway Telegraph Post Office and Arms Acts

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town

185 (*1*) Wherever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is may decide by which Court the offence shall be inquired into or tried

High Court to decide in case of doubt district where inquiry or trial shall take place

*   *   *[5]

186 (*1*) When a Presidency Magistrate a District Magistrate, a Sub divisional Magistrate or, if he is specially empowered in this behalf *by the Local Government, a Magistrate of the first class* sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot under the provisions of sections 177 to 184 (both inclusive) or any other law for the time being in force be inquired into or tried within such local limits but is under some law for the time being in force triable in British India such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him and send such person to the Magistrate having jurisdiction to inquire into or try such offence or if such offence is bailable take a bond with or without sureties for his appearance before such Magistrate

Power to issue summons or warrant for offence committed beyond local jurisdiction

Magistrate's procedure on arrest

(*2*) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court

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1 [illegible] Acts Vol IV
2 [illegible] neral Acts Vol III
3 [illegible] Acts Vol V
4 [illegible] ts Vol II
5 [illegible] Burma Courts Act 1900 (VI of 19[illegible]

Procedure where warrant issued by subordinate Magistrate.

187. (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of British India.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agents to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed certifies that, in his opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879,[1] in respect of the same offence X in any territory beyond the limits of British India.

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

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[1] Now repealed by the Indian Extradition Act, 1903 (XV of 1903), General Acts, Vol. V.

B.—Conditions requisite for Initiation of Proceedings.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence— *Cognizance of offences by Magistrates.*

(*a*) upon receiving a complaint of facts which constitute such offence,

(*b*) upon a police report of such facts,

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The Local Government, or the District Magistrate subject to the general or special orders[1] of the Local Government, may empower any [2]Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate. *Transfer or commitment on application of accused.*

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. *Transfer of cases by Magistrates.*

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session[3] shall take *Cognizance of offences by Courts of Session.*

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[1] For notification in Ajmer-Merwara, *see* Aj. R. and O.

[2] For notification empowering a Sub-divisional Magistrate under this section in Assam in cases arising on the railway in Sylhet, *see* Assam R. and O.

[3] As to procedure [illegible] arts. XVII and 21, respectively.

cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the [1]Local Government by general or special order may direct them to try, or, in the case of Assistant Sessions Judges, as the Sessions Judge of the division, by general or special order, may make over to them for trial

Cognizance of offences by High Court

194 (1) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the [2]Indian High Courts Act, 1861 [3][or the Government of India Act, 1915] or any other provision of this Code 24 & 25 Vict c 104. 5 & 6 Geo 5 c 61.

Informations by Advocate General

(2) (a) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of the Governor General in Council or the Local Government, exhibit to the High Court against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England

(b) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit

(c) All fines penalties forfeitures debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India

(d) The High Court may make rules for carrying into effect the provisions of this section

195 (1) No Court shall take cognizance—

Prosecution for contempts of lawful authority of public servants

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code,[4] except with the previous sanction or on the complaint, of the public servant concerned or some public servant to whom he is subordinate XLV

[1] For instance of a notification of the kind here referred to see U P Gazette 1913 Pt I, p 294

[2] See now the Government of India Act 1915 (5 & 6 Geo 5 c 61)

[3] These words were inserted by s 2 and Schedule of the Amending Act 1916 (XIII of 1916) General Acts Vol VIII

[4] General Acts Vol I

Prosecution for certain offences against public justice

(b) of any offence punishable under section 193 194 195, 196 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code when such offence is committed in or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate,

Prosecution for certain offences relating to documents given in evidence

(c) of any offence described in section 463 or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate

(2) In clauses (b) and (c) of sub section (1) the term "Court" means a Civil, Revenue or Criminal Court, but does not include a
8 7 Registrar or Sub Registrar under the Indian Registration Act, 1877 [1]

(3) The provisions of sub section (1), with reference to the offences named therein, apply also to [2][Criminal conspiracies to commit such offences and to] the abetment of such offences, and attempts to commit them

Nature of sanction necessary

(4) The sanction referred to in this section may be expressed in general terms and need not name the accused person, but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed

(5) When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts

(6) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate and no sanction shall remain in force for more than six months from the date on which it was given, provided that the High Court may, for good cause shown, extend the time

(7) For the purposes of this section every Court shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie, that is to say—

(a) where such appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate,

[1] See now the Indian Registration Act 1908 (XVI of 1908) General Acts Vol VI

[2] These words were inserted by s 4 of the Criminal Law Amendment Act 1913 (VIII of 1913) General Acts Vol VII

(b) where such appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case in connection with which the offence is alleged to have been committed,

(c) where no appeal lies such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first mentioned Court is situate

Prosecution for offences against the State

196 No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code[1] (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf XI

Prosecution for certain classes of criminal conspiracy

[2][196A No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code[1], XI

(1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence or a legal act by illegal means or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from the Governor General in Council the Local Government or some officer empowered by the Governor General in Council in this behalf, or

(2) in a case where the object of the conspiracy is to commit any non cognizable offence or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards unless the Local Government, or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the Local Government has, by order in writing, consented to the initiation of the proceedings

Provided that where the criminal conspiracy is one to which the provisions of sub section (3) of section 195 apply no such consent shall be necessary]

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[1] General Acts Vol I
[2] This section was inserted by s 5 of the Criminal Law Amendment Act 1913 (VIII of 1913) General Acts Vol VII

197. (*1*) When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government. Prosecution of Judges and public servants.

(*2*) Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held. Power of Government as to prosecution.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code[1] or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence. Prosecution for breach of contract, defamation and offences against marriage.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code,[1] except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed. Prosecution for adultery or enticing a married woman.

CHAPTER XVI

OF COMPLAINTS TO MAGISTRATES

200. Subject to the provisions of section 476, a Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate: Examination of complainant.

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

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[1] General Acts, Vol. I.

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing, but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing,

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re examine the complainant

Procedure by Magistrate not competent to take cognizance of the case

201 (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court

Postponement of issue of process

202 (*1*) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf, or any Magistrate of the first or second class, is not satisfied as to the truth of a complaint of an offence of which he is authorized to take cognizance he may, when the complainant has been examined, record his reasons and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police officer, or by such other person, not being a Magistrate or police officer as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint

(*2*) If such investigation is made by some person not being a Magistrate or a police officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police station, except that he shall not have power to arrest without warrant

(*3*) This section applies also to the police in the towns of Calcutta and Bombay

Dismissal of complaint

203 The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding In such case he shall briefly record his reasons for so doing

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. (*1*) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction. Issue of process.

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader. Magistrate may dispense with personal attendance of accused.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. (*1*) Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court. Power to commit for trial.

(2) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

Taking of evidence produced.

208. *(1)* The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them

Process for production of further evidence

(3) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(4) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged

209 *(1)* When the evidence referred to in section 208, sub-sections *(1)* and *(3)*, has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. *(1)* When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged

Charge to be explained, and copy furnished to accused.

(2) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

211 (*1*) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial

List of witnesses for defence on trial.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time, and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial

Further list

212 The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211

Power of Magistrate to examine such witnesses.

213 (*1*) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment

Order of commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused

214 If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject, who is about to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction and the Magistrate finds that there are sufficient grounds for committing the accused for trial he shall commit him for trial before the High Court and not before the Court of Session

Person charged outside presidency towns jointly with European British subject.

215 A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law

Quashing commitments under section 213 or 214

216 When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself, to appear before the Court to which the accused has been committed

Summons to witnesses for defence when accused is committed.

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be

summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly.

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order[1] to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the enquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. (*1*) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

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[1] *See* Sch. V, Form XXVII, *infra.*

(2) Such examination shall, if possible, be taken in the presence of the accused, and where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost

220 Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail,[1] commit the accused, by warrant, to custody

Custody of accused pending trial

CHAPTER XIX

OF THE CHARGE

Form of Charges[2]

221 (1) Every charge under this Code shall state the offence with which the accused is charged

Charge to state offence

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only

Specific name of offence sufficient description

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged

How stated where offence has no specific name

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case

What implied in charge

(6) In the presidency towns the charge shall be written in English elsewhere it shall be written either in English or in the language of the Court

Language of charge

(7) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award[3] the fact, date and place of the previous conviction shall be stated in the charge If such statement is omitted, the Court may add it at any time before sentence is passed

Previous conviction when to be set out

Illustrations

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[1] See Chapter XXXIX infra

[2] See Sch V Form XXVIII infra

[3] See the Indian Penal Code (Act XLV of 1860) s 75 General Acts Vol I see the Whipping Act 1909 (IV of 1909) ss 3 and 4 ibid, Vol VI See also infra, ss. 310 348 and 511

¹ with intentionally
of a public servant

Particulars as to time place and person.

222 (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged

(*2*) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234

Provided that the time included between the first and last of such dates shall not exceed one year

When manner of committing offence must be stated

223 When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose

Illustrations

[illegible] The

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A

not

om

Words in charge taken in sense of law under which offence is punishable

224 In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable

¹ General Acts Vol I

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice. Effect of errors

Illustrations

(*a*) A is charged, under section 242 of the Indian Penal Code,[1] with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly A defends himself, calls witnesses and gives his [illegible] omission to set [illegible]

[illegible] is not set out [illegible] d no means of knowing to which of them the charge referred, and offered no defence The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error

(*d*) A is charged with the murder of Khoda Bakhsh on the 21st January 1882 In fact, [illegible] immaterial [illegible] 1882, and Khoda [illegible] When charged [illegible] Bakhsh The [illegible] The Court [illegible]

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court the Clerk of the Crown, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges. Procedure on commitment without charge or with imperfect charge

Illustrations

1 A is charged with the murder of C A charge of abetting the murder of C may be added or substituted

2 A is charged with forging a valuable security under section 467 of the Indian Penal Code[1] A charge of fabricating false evidence under section 193 may be added

3 A is charged with receiving stolen property knowing it to be stolen During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin A charge under section 235 of the Indian Penal Code[1] cannot be added

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed Court may alter charge

(*2*) Every such alteration or addition shall be read and explained to the accused

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[1] General Acts, Vol I

When trial may proceed immediately after alteration

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge

When new trial may be directed or trial suspended

229 If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary

Stay of proceedings if prosecution of offence in altered charge require previous sanction

230 If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded

Recall of witnesses when charge altered

231 Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re summon, and examine with reference to such alteration or addition any witness who may have been examined, and also to call any further witness whom the Court may think to be material

Effect of material error

232 (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved it shall quash the conviction

Illustration

A is convicted of an offence under section 196 of the Indian Penal Code [1] upon a charge XI which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated If the Court thinks it probable that A

Joinder of charges

Separate charges for distinct offences

233 For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately except in the cases mentioned in sections 234, 235 236 and 239

[1] General Acts Vol I

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion A must be separately charged and separately tried for the theft and causing grievous hurt

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three

Three offences of same kind within year may be charged together

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal
60 Code[1] or of any special or local law

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence

Trial for more than one offence

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences

Offence falling within two definitions

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts

Acts constituting one offence, but constituting when combined a different offence

(*4*) Nothing contained in this section shall affect the Indian Penal Code,[1] section 71

Illustrations

to sub section (1)—

d ing causes grievous hurt to C
with and convicted of offences

commit ad il ery and co mits in
ar itely charged with and con
Ind n Pe al C de
with in ent to commit adultery th B
separately charged with and convicted
an Penal Code[1]
ng them to be counterfeit and intending
forgeries punishable under section 450
of the Indian Penal Code A may be separately charged with and convicted of the
860 possession of each seal under section 473 of the Penal Code[1]

(*e*) With intent to cause injury to B A institutes a criminal proceeding against him knowing that there is no just or lawful ground for such proceeding and also falsely accuses B of having committed an offence knowing that there is no just or lawful ground for such charges A may be separately charged with and convicted of two offences under section 211 of the Indian Penal Code[1]

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[1] General Acts, Vol I

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code [1]

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code [1]

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code [1]

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time

to sub section (2)—

to sub section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code [1]

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences

Illustrations

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, [illegible] of trust or cheating

(*b*) A sta[illegible] B but C with a club Before the Sessions [illegible] may be charged in the alternative and co[illegible] although it cannot be proved which of these contradictory statements was false

When a person is charged with one offence he can be convicted of another.

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(*2*) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

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[1] General Acts, Vol I

Illustration

A is charged with theft It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

When offence proved included in offence charged

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it

(*3*) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section

Illustrations

860 (*a*) A is charged under section 407 of the Indian Penal Code [1] with criminal breach of trust in respect of property entrusted to him as a carrier It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier He may be convicted of criminal breach of trust under section 406

(*b*) A is charged under section 325 of the Indian Penal Code,[1] with causing grievous hurt He proves that he acted on grave and sudden provocation He may be convicted under section 335 of the Code

What persons may be charged jointly.

239 When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence and another of abetment of, or attempt to commit, such offence they may be charged and tried together or separately, as the Court thinks fit, and the provisions contained in the former part of this Chapter shall apply to all such charges

Illustrations

(*a*) A and B are accused of the same murder A and B may be charged and tried together for the murder

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Withdrawal of remaining charges on conviction on

240 When a charge containing more heads than one is framed against the same person and when a conviction has been had on one or more of them the complainant, or the officer conducting the prosecution,

[1] General Acts, Vol I

one of several charges

may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS CASES BY MAGISTRATES.

Procedure in summons cases.

241. The following procedure shall be observed by Magistrates in the trial of summons cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, but it shall not be necessary to frame a formal charge.[1]

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him, and if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Procedure when no such admission is made.

244. (*1*) If the accused does not make such admission the Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

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[1] Except in the case of trials of European British subjects by District Magistrates see s. 451 (4) *infra*.

(2) If he finds the accused guilty, he shall pass sentence upon him according to law.[1] Sentence.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons. Finding not limited by complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day. Non appearance of complainant.

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused. Withdrawal of complaint.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused. Power to stop proceeding when no complainant.

Frivolous Accusations in Summons and Warrant Cases.

250. (*1*) If, in any case instituted by complaint as defined in this Code, or upon information given to a police officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit. Frivolous or vexatious accusations.

[1] See Sch. V, Form XXIX, *infra*.

Provided that, before making any such direction, the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal his reasons for awarding the compensation.

(*2*) Compensation of which a Magistrate has ordered payment under sub-section (*1*) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(*3*) A complainant or informant who has been ordered under sub-section (*1*) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(*4*) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*3*) the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(*5*) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section.

CHAPTER XXI

OF THE TRIAL OF WARRANT CASES BY MAGISTRATES

Procedure in warrant-cases.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

252. (*1*) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

(*2*) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of

the case and to be able to give evidence for the prosecution, and shall summons[1] to give evidence before himself such of them as he thinks necessary

253. (*1*) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted would warrant his conviction, the Magistrate shall discharge him — Discharge of accused

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless

254 [2] If when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused — Charge to be framed when offence appears proved

255 (*1*) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make — Plea.

(*2*) If the accused pleads guilty the Magistrate shall record the plea, and may in his discretion convict him thereon

256. (*1*) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state whether he wishes to cross examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken If he says he does so wish the witnesses named by him shall be recalled and after cross examination and re examination (if any) they shall be discharged The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross examination and re examination (if any) they also shall be discharged The accused shall then be called upon to enter upon his defence and produce his evidence — Defence

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record

257 (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross examination or the production of any document or other thing the Magistrate shall issue such process unless he considers that such application should — Process for compelling production of evidence at instance of accused.

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[1] See Sch V Form XXXI infra

[2] See ss 252 and 203 supra

be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal. **258.** (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction. (*2*) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.[1]

Absence of complainant. **259.** When the proceedings have been instituted upon complaint and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded,[2] the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

OF SUMMARY TRIALS.

Power to try summarily. **260.**[3] (*1*) Notwithstanding anything contained in this Code,—

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Local Government,

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[1] *See* Sch. V, Form XXIX, *infra*.

[2] *See* s. 345, *infra*.

[3] As to powers of Magistrates in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. 5, Bur. Code; (2) in British Baluchistan, *see* British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 5, Bal. Code. As to summary trial of forest offences, *see* the Indian Forest Act, 1878 (VII of 1878), s. 65, General Acts, Vol. II.

may, if he or they think fit, try in a summary way all or any of the following offences :—

(a) offences not punishable with death, transportation or imprisonment for a term exceeding six months;

(b) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code,[1]

(c) hurt, under section 323 of the same Code,

(d) theft, under sections 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees,

(e) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees,

(f) receiving or retaining stolen property under section 411 of the same Code where the value of such property does not exceed fifty rupees,

(g) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees,

(h) mischief, under section 427 of the same Code,

(i) house-trespass, under section 448, and offences under sections 451, [2][453, 454], 456 and 457 of the same Code,

(j) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation under section 506 of the same Code,

(k) abetment of any of the foregoing offences,

(l) an attempt to commit any of the foregoing offences, when such attempt is an offence,

(m) offences under section 20 of the Cattle-trespass Act, 1871.[3]

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

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[1] General Acts, Vol. I.

[2] These figures were inserted by the Repealing and Amending Act, 1903 (I of 1903), see Part II of the Second Schedule, Genl. Acts, Vol. V.

[3] General Acts, Vol. II.

Trial before High Court to be by jury

267 All trials under this Chapter before a High Court shall be by jury,

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861,[1] 24 c
[2][or the Government of India Act 1915] the trial may, if the High 5
Court so directs, be by jury c

Trials before Courts of Session to be by jury or with assessors

268 All trials before a Court of Session shall be either by jury, or with the aid of assessors

Local Government may order trials before Court of Session to be by jury

269 (*1*) The Local Government[3] may with the previous sanction of the Governor General in Council by order in the official Gazette, direct that the trial of all offences or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction revoke or alter such order

(*2*) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury the trial of such offences shall if the Judge, on application made to him or of his own motion so directs be by jurors summoned from a special jury list and may revoke or alter such order

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session with the aid of the jurors as assessors for such of them as are not triable by jury

Trial before Court of Session to be conducted by Public Prosecutor

270 In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor

B —Commencement of Proceedings

Commencement of trial

271 (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him and he shall be asked whether he is guilty of the offence charged or claims to be tried

Plea of guilty

(*2*) If the accused pleads guilty, the plea shall be recorded and he may be convicted thereon

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[1] *See* n
[2] Tl es the Amending Act 1916 (XIII
[3] For nent of Burma, *see* Bur R M [illegible] Assam Valley Sessions Court, *see* Assam R and O (3) Government of Bengal *see* Ben R and O

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (*1*) In trials before the High Court, when it appears to the High Court at any time before the commencement of the trial of the person charged that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

Number of jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than three or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.[1]

Jury for trial of persons not Europeans or Americans before Court of Sessions.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

Jurors to be chosen by lot.

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule[2] direct:

Provided that—

First practice maintained.

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

Persons not summoned when eligible.

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present;

Trials before special jurors.

thirdly, in the presidency towns—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

[1] For rules in Bengal for the trial of Europeans and Americans, see Ben. R. and O.

[2] For rules made under this section in conjunction with s. 313 by the High Court of the North-Western Provinces, see U. P. R. and O.; for Madras, see Mad. R. and O.; and for Calcutta, see Ben. R. and O.

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed, and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325

Names of jurors to be called

277. (*1*) As each juror is chosen, his name shall be called aloud, and, upon his appearance the accused shall be asked if he objects to be tried by such juror

Objection to jurors.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated

Objection without grounds stated.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged

Grounds of objection

278. Any objection taken to a juror on any of the following grounds if made out to the satisfaction of the Court shall be allowed —

(*a*) some presumed or actual partiality in the juror,

(*b*) some personal grounds such as alienage deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty one or above the age of sixty years,

(*c*) his having by habit of religious vows relinquished all care of worldly affairs,

(*d*) his holding any office in or under the Court,

(*e*) his executing any duties of police or being entrusted with police duties,

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury,

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted,

(*h*) any other circumstances which, in the opinion of the Court, renders him improper as a juror

Decision of objection

279 (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final

Supply of place of juror against whom

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other

uror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury — objection allowed.

Provided that no objection to such juror or other person is taken under section 278 and allowed

280 (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman — Foreman of jury

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court

281 When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873 [1] — Swearing of jurors

282 (*1*) If, in the course of a trial by jury at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted the language in which it is interpreted a new juror shall be added, or the jury shall be discharged and a new jury chosen — Procedure when juror ceases to attend etc

(*2*) In each of such cases the trial shall commence anew

283 The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar — Discharge of jury in case of sickness of prisoner

D —Choosing Assessors

284 When the trial is to be held with the aid of assessors two or more shall be chosen as the Judge thinks fit from the person summoned to act as such — Assessors how chosen.

285 (*1*) If in the course of a trial with the aid of assessors, at any time before the finding any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors — Procedure when assessor is unable to attend.

(*2*) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors

[1] General Acts Vol II

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for prosecution.

286. (*1*) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code[1] or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

(*2*) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.[2]

Evidence given at preliminary inquiry admissible.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

Procedure after examination of witnesses for prosecution.

289. (*1*) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(*2*) If he says that he does not, the prosecutor may sum up his case, and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*3*) If the accused or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or in a case tried by a jury direct the jury to return a verdict of not guilty.

(*4*) If the accused or any one of several accused says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross examination and re-examination (if any) may sum up his case.

Right of accused as to examination

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance, but he shall

[1] General Acts, Vol. I.

[2] *See* the Indian Evidence Act, 1872 (I of 1872), s. 80, General Acts, Vol. II.

not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial *and summoning of witnesses.*

292 If the accused, or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply *Prosecutor's right of reply*

293 (1) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court *View by jury or assessors*

(2) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court

294 If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross examined and re examined in the same manner as any other witness *When juror or assessor may be examined*

295 If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial *Jury or assessors to attend at adjourned sitting*

296 The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day, and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes *Locking up jury*

F —Conclusion of Trial in Cases tried by Jury

297 In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided *Charge to jury*

298 (1) In such cases it is the duty of the Judge— *Duty of Judge.*

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on

behalf of the parties, and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties,

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial,

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given,

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge and not for the jury to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

299. It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned,

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not,

(*c*) to decide all questions which according to law are to be deemed questions of fact,

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unlesss such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide and to tell them under what views of the facts A ought to be convicted of murder or of culpable homicide or to be acquitted.

true and to return a
direction is right or

belief on a particular

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge. Judge may question jury. Questions and answers to be recorded.

303. (*1*) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

(*2*) Such questions and the answers to them shall be recorded.

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. (*1*) When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(*2*) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(*3*) If the Judge disagrees with the majority, he shall at once discharge the jury.

(*4*) If there are not so many as six who agree in opinion, the Judge shall after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (*1*) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal If the accused is convicted, the Judge shall pass sentence on him according to law

Procedure where Sessions Judge disagrees with verdict

307. (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject *thereto it shall, after considering the entire evidence and after giving* due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it, and, if it convicts him, may pass such sentence as might have been passed by the Court of Session

G —Re trial of Accused after Discharge of Jury

Re-trial of accused after discharge of jury

308 Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal

H —Conclusion of Trial in Cases tried with Assessors

Delivery of opinions of assessors.

309 (1) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion

Judgment.

(2) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors

(3) If the accused is convicted, the Judge shall pass sentence on him according to law

I —Procedure in Case of Previous Conviction

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows — Procedure in case of previous conviction

(*a*) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence

(*b*) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge

(*c*) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly, but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury, or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous conviction and in such (where the trial is by jury) it shall not be necessary to swear the jurors again

311 Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872 [1] When evidence of previous conviction may be given.

J —List of Jurors for High Court, and summoning Jurors for that Court

312 The names of not more than four hundred persons shall at any one time be entered in the special jurors' list Number of special jurors.

313 (*1*) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules[2] as the High Court from time to time prescribes, prepare— Lists of common and special jurors.

(*a*) a list of all persons liable to serve as common jurors, and

(*b*) a list of persons liable to serve as special jurors only

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein

[1] General Acts Vol II

[2] [illegible] North Western Provinces under this section, in [illegible] vinces and Oudh Gazette 1902 Pt. II, p 539 for [illegible] this section see Mad P and O for rules by the [illegible] O

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year

(*4*) The Governor General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government [1] may exempt any salaried officer of Government from serving as a juror

Discretion of officer preparing lists

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision

Publication of lists preliminary and revised

314 (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation

(*2*) Revised lists of persons liable to serve as common jurors and special jurors respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court house

Number of jurors to be summoned in presidency towns

315 (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each session in each presidency town at least twenty seven of those who are liable to serve on special juries, and fifty four of those who are liable to serve on common juries

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him

Supplementary summons

(*3*) If during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions

Summoning jurors outside the presidency towns

316 Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session

Military jurors

317 (*1*) In addition to the persons so summoned as jurors the said Court of Session shall if it thinks needful, after communication with the Commanding Officer cause to be summoned such number of commissioned and non commissioned officers in Her Majesty's Army resident

[1] For notification exempting a certain officer of Government from service as juror or assessor see Bur R M

within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code, but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit, and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid. Failure of jurors to attend.

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed. Liability to serve as jurors or assessors.

320. The following persons are exempt from liability to serve as jurors or assessors, namely:— Exemptions.

(a) officers in civil employ superior in rank to a District Magistrate,

(b) salaried Judges,

(c) Commissioners and Collectors of Revenue or Customs,

(d) police officers and persons engaged in the Preventive Service in the Customs Department,

(e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty,

(f) persons actually officiating as priests or ministers of their respective religions,

(g) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors,

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(*4*) The Governor General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government,[1] may exempt any salaried officer of Government from serving as a juror.

Discretion of officer preparing lists.

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists preliminary and revised.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court house.

Number of jurors to be summoned in presidency towns.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each session in each presidency town at least twenty seven of those who are liable to serve on special juries, and fifty four of those who are liable to serve on common juries.

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the presidency towns.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of commissioned and non commissioned officers in Her Majesty's Army resident

[1] For notification exempting a certain officer of Government from service as juror or assessor, *see* Bur. R. M.

within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code, but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason

318 Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge, to such fine as he thinks fit, and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid Failure of jurors to attend

Provided that the Court may in its discretion remit any fine or imprisonment so imposed

K — List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court

319 All male persons between the ages of twenty one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed Liability to serve as jurors or assessors

320 The following persons are exempt from liability to serve as jurors or assessors, namely — Exemptions

(*a*) officers in civil employ superior in rank to a District Magistrate,

(*b*) salaried Judges,

(*c*) Commissioners and Collectors of Revenue or Customs

(*d*) police officers and persons engaged in the Preventive Service in the Customs Department,

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty,

(*f*) persons actually officiating as priests or ministers of their respective religions,

(*g*) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors,

(h) surgeons and others who openly and constantly practise the medical profession,

(i) legal practitioners (as defined by the Legal Practitioners' Act, 1879),[1] in actual practice, XVI 1879

(j) persons employed in the Post Office and Telegraph Departments,

(k) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641,[2]

(l) other persons exempted by the Local Government from liability to serve as jurors or assessors

List of jurors and assessors

321 (1) The Sessions Judge and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (b) to (h), both inclusive

(2) The list shall contain the name, place of abode and quality or business of every such person, and if the person is an European or an American the list shall mention the race to which he belongs

Publication of list

322 Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside

Objections to list

323 To every such copy or extract shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court house and at a time to be mentioned in the notice

Revision of list

324 (1) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, or as an assessor, or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service

[1] General Acts Vol III

[2] *See* now the Code of Civil Procedure 1908 (V of 1908) General Acts Vol VI

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(6) The list so prepared and revised shall be again revised once in every year. Annual revision of list.

(7) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury. Preparation of list of special jurors.

326. (1) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list[1] or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial. District Magistrate to summon jurors and assessors.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them, and the names so drawn shall be specified in the said letter.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive or whenever for other reasons such direction is found to be necessary. Power to summon another set of jurors or assessors.

[1] See Sch. V, Forms XXXII and XXXIII respectively, infra.

Form and contents of summons

328. Every summons[1] to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified

When Government or Railway servant may be excused

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public

Court may excuse attendance of juror or assessor

330 (*1*) The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session

Court may relieve special jurors from liability to serve again as jurors for twelve months

(*2*) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months

List of jurors and assessors attending

331. (*1*) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session

(*2*) Such list shall be kept with the list of the jurors and assessors as revised under section 324

(*3*) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section

Penalty for non attendance of juror or assessor

332 (*1*) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees

(*2*) Such fine shall be levied by the District Magistrate by attachment and sale of any movable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order

(*3*) For good cause shown, the Court may remit or reduce any fine so imposed

(*4*) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term

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[1] *See* Sch V, Forms XXXII and XXXIII, respectively, *infra*.

L —Special Provisions for High Courts

Power of Advocate General to stay prosecution

333 At any stage of any trial before a High Court under this Code, before the return of the verdict the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge, and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs

Time of holding sittings

334 For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints

Place of holding sittings

335 (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William or the Local Government in the case of the other High Courts, may direct

(*2*) But it may, from time to time in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints

Notice of sittings

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court

Place of trial of European British subjects.

336 The High Court may direct that all European British subjects and persons liable to be tried by it under section 214 who have been committed for trial by it within certain specified districts or during certain specified periods of the year shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named

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CHAPTER XXIV

General Provisions as to Inquiries and Trials

Tender of pardon to accomplice

337 [1](*1*) In the case of any offence[2] triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magis

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trate, any Magistrate of the first class inquiring into the offence or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

(*2*) Every person accepting a tender under this section shall be examined as a witness in the case.

(*3*) Such person, if not on bail, shall be detained in custody until the termination of the trial[1] by the Court of Session or High Court, as the case may be.

(*4*) Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing, and when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

[1] In places where the Frontier Crimes Regulation, 1901 (III of 1901), is in force the words "by the Court of Session or High Court, as the case may be," are to be omitted, *see* s. 7 of the Regulation, Punj. Code.

340. Every person accused before any Criminal Court may of right be defended by a pleader. Right of accused to be defended.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial, and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit. Procedure where accused does not understand proceedings.

342. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. Power to examine the accused.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them, but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge. No influence to be used to induce disclosures.

[1]**344.** (1) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody. Power to postpone or adjourn proceedings.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time. Remand.

(2) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

[1] Cf. the Indictable Offences Act, 1848 (11 & 12 Vict., c. 42), s. 21.

Reasonable cause for remand

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences

[1]**345.** (*1*) The offences punishable under the sections of the Indian Penal Code[2] described in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :— XLV

Offence	Sections of Indian Penal Code applicable	Persons by whom offence may be compounded
Uttering words, etc., with deliberate intent to wound the religious feelings of any person	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person	341, 342	The person restrained or confined.
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person	4?6, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House trespass	448	The person in possession of the property trespassed upon.
Criminal breach of contract of service	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman	498	The husband of the woman.
Defamation	500	The person defamed.
Printing or engraving matter knowing it to be defamatory	501	The person defamed.
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter	502	The person defamed.
Insult intended to provoke a breach of the peace	504	The person insulted.
Criminal intimidation, except when the offence is punishable with imprisonment for seven years	506	The person intimidated.

(*2*) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337 or section 338 of the

[illegible] section to hill tribes to which the Kachin [illegible] Chin Hills Regulation, 1896 (V of 1896) [illegible] 15 respectively, dated 30th June, 1898, [illegible] Code.

0. Indian Penal Code,[1] may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused

(*3*) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner

(*4*) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence

(*5*) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or as the case may be before which the appeal is to be heard

(*6*) The composition of an offence under this section shall have the effect of an acquittal of the accused

(*7*) No offence shall be compounded except as provided by this section

Procedure of Provincial Magistrate in cases which he cannot dispose of

346 (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate having jurisdiction as the District Magistrate directs

(*2*) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself or refer it to any Magistrate subordinate to him having jurisdiction or commit the accused for trial

Procedure when after commencement of inquiry or trial Magistrate finds case should be committed

347 (*1*) If in any inquiry before a Magistrate or in any trial before a Magistrate before signing judgment it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court and if he is empowered to commit for trial he shall stop further proceedings and commit the accused under the provisions hereinbefore contained

(*2*) If such Magistrate is not empowered to commit for trial he shall proceed under section 346

Trial of persons previously convicted of offences

348 Whoever, having been convicted of an offence punishable
60 under Chapter XII or Chapter XVII of the Indian Penal Code[1] with imprisonment for a term of three years or upwards is again accused of any offence punishable under either of those Chapters with imprison

[1] General Acts Vol I

against coinage, stamp-law or property

ment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted:

Provided that, if the District Magistrate has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

Procedure when Magistrate cannot pass sentence sufficiently severe.

[1]**349.** *(1)* Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magisrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. *(1)* Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and recommence the inquiry or trial:

Provided as follows:—

(a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(b) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction

[1] In the Santhal Parganas, any person convicted or sentenced under this section by any Magistrate other than the Deputy Commissioner may appeal to the Deputy Commissioner, and, if convicted or sentenced by the Deputy Commissioner, may appeal to the Commissioner as High Court—*see* s. 4 of the Santhal Parganas Justice Regulation, 1893 (V of 1893), B. and O. Code.

passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency towns.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner:—

Record in summons cases and in trials of certain offences by first and second class Magistrates.

[1]355. (*1*) In summons cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

Record in other cases outside presidency towns.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge.

Evidence given in English.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(*3*) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

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[1]**357.** (*1*) The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court. Language of record of evidence

(*2*) The evidence so taken down shall be signed by the Sessions Judge or Magistrate and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356 or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section. Option to Magistrate in cases under section 355

359. (*1*) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. Mode of recording evidence under section 356 or section 357

(*2*) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down any particular question and answer.

360. (*1*) As the evidence of each witness taken under section 356 or section 357 is completed it shall be read over to him in the presence of the accused, if in attendance or of his pleader, if he appears by pleader, and shall if necessary, be corrected. Procedure in regard to such evidence when completed

(*2*) If the witness denies the correctness of any part of the evidence when the same is read over to him the Magistrate or Sessions Judge may, instead of correcting the evidence make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(*3*) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

[1] *See* note to s. 355 *supra*.

Interpretation of evidence to accused or his pleader.

361. (*1*) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(*2*) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(*3*) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Record of evidence in Presidency Magistrates' Courts.

362. (*1*) In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(*2*) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(*3*) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

Remarks respecting demeanour of witness.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination of accused how recorded.

364. (*1*) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter [1]* * * * * [2][or the Chief Court of Lower Burma], the whole of such examination including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(*2*) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge or such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing

[1] The words "or the Chief Court of the Punjab" were repealed by the Repealing and Amending Act, 1919 (XVIII of 1919).

[2] These words were inserted by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 47 and First Schedule, Bur. Code.

and that the record contains a full and true account of the statement made by the accused.

(*3*) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English if he is sufficiently acquainted with the latter language, and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(*4*) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

Record of evidence in High Court.

365. Every High Court established by Royal Charter, [1]* * [2]* * * * [1][and the Chief Court of Lower Burma] may from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI

OF THE JUDGMENT

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

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[1] The word "and" was omitted and the words "and the Chief Court of Lower Burma" inserted by the Lower Burma Courts Act, 1900 (VI of 1900)—see s. 47 and the First Schedule, Bur. Code.

[2] The words "the Chief Court of the Punjab" were repealed by the Repealing and Amending Act, 1919 (XVIII of 1919).

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English, and shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, and the section of the Indian Penal Code[1] or other law under which the accused is convicted, and the punishment to which he is sentenced.

Judgment in alternative.

(3) When the conviction is under the Indian Penal Code,[1] and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed.

Provided that, in trials by jury, the Court need not write a judgment but the Court of Session shall record the heads of the charge to the jury.

Sentence of death.

368. (1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation.

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. No Court other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484 or to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:—

(a) the serial number of the case;
(b) the date of the commission of the offence,
(c) the name of the complainant (if any),

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[1] General Acts, Vol. I.

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence,

(*e*) the offence complained of or proved,

(*f*) the plea of the accused and his examination (if any);

(*g*) the final order,

(*h*) the date of such order, and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees or both a brief statement of the reasons for the conviction

Copy of judgment etc to be given to accused on application

371 (*1*) On the application of the accused a copy of the judgment, or when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay Such copy shall in any case other than a summons case, be given free of cost

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall on the application of the accused be given to him without delay and free of cost

Case of person sentenced to death

(*3*) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred

Judgment when to be translated

372 The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record

Court of Session to send copy of finding and sentence to District Magistrate.

373 In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held

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CHAPTER XXVII

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

Sentence of death to be submitted by Court of Session

374 When the Court of Session passes sentence of death the proceedings shall be submitted to the High Court[1] and the sentence shall not be executed unless it is confirmed by the High Court

Power to direct further inquiry to be made or additional evidence to be taken

375 (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into or additional evidence taken upon any point bearing upon the guilt or innocence of the convicted person it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session

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[1] See Sch V Form XXXIV infra.

(2) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(3) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such enquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation of new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in cases submitted to High Court for confirmation.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court and attested with his official signature to the Court of Session.

Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such enquiry or evidence to be made or taken.

CHAPTER XXVIII

OF EXECUTION

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant[1] or taking such other steps as may be necessary. *Execution of order passed under section 376.*

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute[2] the sentence to transportation for life. *Postponement of capital sentence on pregnant woman.*

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant. *Execution of sentences of transportation or imprisonment in other cases.*

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail, or other place in which the prisoner is, or is to be, confined. *Direction of warrant for execution.*

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor. *Warrant with whom to be lodged.*

[3]**386.** Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant[2] for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that in default of payment of the fine, the offender shall be imprisoned. *Warrant for levy of fine.*

[3]**387.** Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found. *Effect of such warrant.*

[3]**388.** *(1)* When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the Court issues a *Suspension of execution of sentence of*

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[1] *See* Sch. V, Form ... *infra*.

[2] ...

[3] ... been declared to apply to fines imposed (1) under ... Regulation 1876 (III of 1876—*see* s. 35 as amended ... Regulation 1884 (I of 1884), s. 7 and (2) un... s. 37, General Acts, Vol. I. The provisions of sections 386 and 387 have been extended under s. 1 (*) to the Commissioner of Police, Calcutta, *see* Ben. R. and O.

imprisonment

warrant under section 386 it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond with or without sureties as the Court thinks fit conditioned for his appearance before such Court on the day appointed for the return to such warrant such day not being more than fifteen days from the time of executing the bond, and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once

(2) In any case in which an order for the payment of money has been made on non recovery of which imprisonment may be awarded, and the money is not paid forthwith the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub section (1) and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered

Who may issue warrant

[1]389 Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office

Execution of sentence of whipping only

390 When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct

Execution of sentence of whipping in addition to imprisonment

391 (1) When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal the whipping shall not be inflicted until fifteen days from the date of the sentence, or if an appeal is made within that time until the sentence is confirmed by the Appellate Court but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days or in case of an appeal as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail unless the Judge or Magistrate orders it to be inflicted in his own presence

(3) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months

Mode of inflicting punishment

392 (1) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter in such mode and on such part of the person as the Local Government directs and in the case of a person under sixteen years of

[1] See footnote to s 386 supra

age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as the Local Government directs [1]

(2) In no case shall such punishment exceed thirty stripes [and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes]

Limit of number of stripes

393 No sentence of whipping shall be executed by instalments and none of the following persons shall be punishable with whipping, namely —

Not to be executed by instalments Exemptions

(*a*) females,

(*b*) males sentenced to death or to transportation or to penal servitude, or to imprisonment for more than five years,

(*c*) males whom the Court considers to be more than forty five years of age

394. (*1*) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment

Whipping not to be inflicted if offender not in fit state of health

(*2*) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped

Stay of execution

395 (*1*) In any case in which, under section 394, a sentence of whipping is wholly or partially prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months which may be in addition to any other punishment to which he may have been sentenced for the same offence

Procedure if punishment cannot be inflicted under section 394

(*2*) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict

396 (*1*) When sentence is passed under this Code on an escaped convict, such sentence if of death, fine or whipping, shall, subject to the

Execution of sentences on escaped convict

[1] For manner in which whipping shall be inflicted in—
(1) Assam *see* Assam P and O
(2) Bombay, *see* Bom R and O
(3) Burma *see* Bur R M
(4) Central Provinces *see* C P R and O
(5) Coorg *see* Coorg R and O
(6) Madras *see* Mad P and O

[2] These words were added by s 7 of the Whipping Act 1909 (IV of 1909) General Acts Vol VI Appendix

provisions hereinbefore contained, take effect immediately, and, if of imprisonment penal servitude or transportation, shall take effect according to the following rules that is to say—

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped the new sentence shall take effect immediately

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation as the case may be, for a further period equal to that which, at the time of his escape remained unexpired of his former sentence

Explanation—For the purposes of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment,

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement

Sentence on offender already sentenced for another offence

397 When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment penal servitude or transportation such imprisonment penal servitude or transportation shall commence at the expiration[1] of the imprisonment, penal servitude or transportation to which he has been previously sentenced

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced

Saving as to sections 396 and 397

398 (*1*) Nothing in section *396* or section *397* shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences, of imprisonment transportation or penal servitude effect shall

[1] In the case of a youthful offender however such sentences run concurrently, *see* s. 32 of the Reformatory Schools Act 1897 (VIII of 1897) General Acts Vol IV

not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences

399 (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence the Court may direct such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein — Confinement of youthful offenders in reformatories

(*2*) All persons confined under this section shall be subject to the rules so prescribed

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897,[1] is for the time being in force

400 When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed — Return of warrant on execution of sentence

CHAPTER XXIX

Of Suspensions, Remissions and Commutations of Sentences

401 (*1*) When any person has been sentenced to punishment for an offence, the Governor General in Council or the Local Government may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced — Power to suspend or remit sentences.

(*2*) Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence the Governor General in Council or the Local Government, as the case may be may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion

(*3*) If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government as the case may be not fulfilled the Governor General in Council or the Local Government may cancel the suspension or remission and thereupon the person in whose favour the sentence has been suspend

[1] General Acts Vol IV see s 3 of that Act

ed or remitted may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence

(*4*) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will

(*5*) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment

(*6*) The Governor General in Council and the Local Government may by general rules or [1]special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with

Power to commute punishment

402 The Governor General in Council or the Local Government may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it —

death, transportation penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term fine

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CHAPTER XXX

Of previous Acquittals or Convictions

Person once convicted or acquitted not to be tried for same offence

403 (*1*) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237

(*2*) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub section (*1*)

(*3*) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened, at the time when he was convicted

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[1] For order by the Government of Bombay as to suspension of sentences under the Bombay Prevention of Gambling Act 1887 Bom C le in respect of anything done under a license granted under the Bombay Race-courses Licensing Act 1912 Bom Code see Bombay Government Gazette 1912 Pt I p 1193

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged

(5) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897,[1] or section 188 of this Code

Explanation —The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted He cannot after

grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section

(f) A is charged by a Magistrate of the second class with and convicted by him of theft of property from the person of B A may be subsequently charged with and tried for robbery on the same facts

(g) A, B and C are charged by a Magistrate of the first class with and convicted by him of, robbing D A B and C may afterwards be charged with and tried for dacoity on the same facts

PART VII.

OF APPEAL, REFERENCE AND REVISION

CHAPTER XXXI

Of Appeals [2]

404 No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force *Unless otherwise provided, no appeal to lie*

405 Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any *Appeal from order rejecting application for*

[1] General Acts, Vol IV

[2] For periods of limitation see the Indian Limitation Act, 1908 (IX of 1908), Sch. I, second division, General Acts, Vol VI

restoration of attached property

Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order requiring security for good behaviour.

406. Any person ordered by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class

407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Sub divisional Magistrate of the second class, may appeal to the District Magistrate.

Transfer of appeals to first class Magistrate

(*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class

[1]**408.** Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session

Provided as follows —

(*a*) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session;

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court;

(*c*) when any person is convicted by a Magistrate of an offence under section 124 A of the Indian Penal Code,[2] the appeal shall lie to the High Court.

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge

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[1] [illegible] Magistrates in Upper Burma in cases other [illegible], see the Upper Burma Criminal Justice [illegible] X and XVII, Bur Code As to similar [illegible] British Baluchistan Criminal Justice Regula-[illegible]

[illegible] Frontier Crimes Regulation, 1901 (III of [illegible] -W F Code

Appeal from sentence of Court of Session.

410 Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court

Appeal from sentence of Presidency Magistrate

411 Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees

No appeal in certain cases when accused pleads guilty

412 Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea there shall be no appeal except as to the extent or legality of the sentence

No appeal in petty cases.

413 Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only or of fine not exceeding fifty rupees only or of whipping only

Explanation —There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed

No appeal from certain summary convictions.

[1]**414** Notwithstanding anything hereinbefore contained there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only or of fine not exceeding two hundred rupees only or of whipping only

Proviso to sections 413 and 414

415 An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace

Explanation —A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section

Saving of sentences on European British subjects.

416 Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects

Appeal on behalf of Government in case of acquittal.

417 The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court

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[1] As to [illegible] those affecting European British subjects se[illegible] ion 189? (V of 189?) Schedule arts XI an[illegible] s 1? of the British Baluchistan Criminal Ju[illegible] de

Appeal on what matters admissible.

418. An appeal may lie on a matter of fact as well as a matter of law except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the Local Government may appoint[1] in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

Power of Appellate

[2]**423.** (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record,

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[illegible]

Frontier Province *see* the North West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), ss. 10, 11, P. and N. W. F. Code.

ad hearing the appellant or his pleader, if he appears, and the Public rosecutor, if he appears, and, in case of an appeal under section 417, e accused if he appears, the Court may, if it considers that there is no fficient ground for interfering dismiss the appeal, or may— Cour in disposing of appeal

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be or find him guilty and pass sentence on him according to law,

(*b*) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or with or without altering the finding reduce the sentence, or (3), with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub section (3), not so as to enhance the same,

(*c*) in an appeal from any other order, alter or reverse such order,

(*d*) make any amendment or any consequential or incidental order that may be just or proper

) Nothing herein contained shall authorize the Court to alter or e the verdict of a jury, unless it is of opinion that such verdict is ous owing to a misdirection by the Judge or to a misunderstand i the part of the jury of the law as laid down by him

4 The rules contained in Chapter XXVI as to the judgment of a ial Court of original jurisdiction shall apply, so far as may be able, to the judgment of any Appellate Court other than a High Judgments of subordinate Appellate Courts.

vided that, unless the Appellate Court otherwise directs the .. used shall not be brought up or required to attend to hear judgment delivered

425 (*1*) Whenever a case i decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding sentence or order appealed against was recorded or passed If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate Order by High Court on appeal to be certified to lower Court.

(*2*) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or

order of the High Court, and, if necessary, the record shall be amended in accordance therewith

Suspension of sentence pending appeal Release of appellant on bail

426 (*1*) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond

(*2*) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto

(*3*) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced

Arrest of accused in appeal from acquittal.

427 When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail

Appellate Court may take further evidence or direct it to be taken.

428 (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken, but such evidence shall not be taken in the presence of jurors or assessors

(*4*) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry

Procedure where Judges of Court of Appeal are equally divided

429 When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion

Finality of orders on appeal

430 Judgments and orders passed by an Appellate Court upon appeal shall be final except in the cases provided for in section 417 and Chapter XXXII

Abatement of appeals.

431 Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant

CHAPTER XXXII.

OF REFERENCE AND REVISION.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon. Reference by Presidency Magistrate to High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose the case conformably to the said order. Disposal of case according to decision of High Court.

(*2*) The High Court may direct by whom the costs of such reference shall be paid. Direction as to costs.

[1]434. (*1*) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial. Power to reserve questions arising in original jurisdiction of High Court.

(*2*) If the Judge reserves any such question the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail, and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit. Procedure when question reserved.

435. (*1*) The High Court or any Sessions Judge or District Magistrate or any Sub-divisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court. Power to call for records of inferior Courts.

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[1] As to review in certain criminal cases by the Chief Court of Lower Burma when no reference has been made under this section, *see* s. 12 of the Lower Burma Courts Act, 1900 (VI of 1900), Bur. Code.

(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(*3*) Orders made under sections 143 and 144 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them

Power to order commitment.

436. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged

Provided as follows —

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made,

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence

Power to order inquiry

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any accused person who has been discharged

Report to High Court

438. (*1*) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(*2*) An Additional Sessions Judge shall have and may exercise all

the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by the Sessions Judge.

439. (*1*) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429. High Court's powers of revision.

(*2*) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(*3*) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(*4*) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(*5*) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision: Optional with Court to hear parties.

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (*2*).

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue, and the Court shall consider such statement before overruling or setting aside the said decision or order. Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

442. When a case is revised under this Chapter by the High Court it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith. High Court's order to be certified to lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.[1]

Magistrates who may inquire into and try charges against European British subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions Judge to be an European British subject. Assistant Sessions Judge to have held office for three years and to be specially empowered.

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject, and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government.

Cognizance of offence committed by European British subject.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

Sentences which may be passed by provincial Magistrates.

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.

[1] As to withdrawal from vagrants of their privileges as European British subjects *see* s. 30 of the European Vagrancy Act, 1874 (IX of 1874), General Acts, Vol. II, and s. 3 (*1*) *supra*.

447. (1) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court. When commitment is to be to Court of Session and when to High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences. Trial of offences of which one is, and the others are not punishable with death or transportation for life.

449. (1) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both. Sentences which may be passed by Court of Session.

(2) If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court. Procedure when Judge finds his powers inadequate.

450. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans. Jury or assessors before High Court or Court of Session.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects, accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

Right of European British subject to claim jury before District Magistrate

451 (*1*) In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons case before he is heard in his defence under section 244, or in a warrant case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450

(*2*) If a claim is made under sub section (*1*) in a summons case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid

(*3*) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury

(*4*) In every such case the Magistrate shall, notwithstanding anything contained in section 242 before issuing any orders as aforesaid, frame a formal charge

(*5*) The provisions of sections 211, 216, 217 219 and 220 shall, so far as may be apply for the purpose of securing the attendance of the complainant the accused and the witnesses at every trial to be held under this section

(*6*) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to this Court for trial

(*7*) All Courts may construe any of the provisions referred to in sub-section (*5*) or sub section (*6*) in so far as they are made applicable by those sub sections, with such verbal alterations not affecting the sub stance as may be necessary or proper to adapt the same to the matter before them

(*8*) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447

Transfer to another Court in certain cases

(*9*) If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay expense or inconvenience which under the circum stances of the case would be unreasonable he may, instead of issuing orders for the trial before himself under this section transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time by rules made by it in this behalf and approved by the Local Government, or by special order, direct

(*10*) When a case is transferred under this section to a Sessions Judge or District Magistrate he shall with all convenient speed try it with the

same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately. *Trial of European British subject and Native jointly accused.*

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII. *When Native may claim separate trial.*

453. (*1*) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him. *Procedure on claim of person to be dealt with as European British subject.*

(*2*) When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(*3*) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

454. (*1*) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case. *Failure to plead status a waiver.*

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

Trial under this Chapter of person not an European British subject

455. Where a person who is not an European British subject, is dealt with as such under this Chapter and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid

Right of European British subject unlawfully detained to apply for order to be brought before High Court

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court[1] which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass

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[1] Original and appellate criminal jurisdiction is exercised by the High Courts at Madras and Bombay and for the North Western Provinces over European British subjects in outlying provinces and places in British India as follows —

High Court	Places
Madras	Coorg The Upper Godavari District of the Central Provinces [illegible]
Bombay	[illegible]
North Western Provinces	[illegible] *The Cantonment of Morar (since ceded to the Gwalior State—see Notification No 2557 I, dated the 29th July 1886, Gazette of India, 1886, Pt I, p 453)* Ajmer and British Merwara

[*See* Notification No 1203, dated the 23rd September 1874 Gazette of India, 1874, Pt I p 484]

The High Court at Fort William exercises original and appellate jurisdiction and has all the functions of a High Court under the Code in all criminal proceedings against European British subjects and persons charged with European British subjects in the Andaman and Nicobar Islands—*see* Notification No 77, dated 15th March 1878, Gazette of India 1878, Pt I, p 132

Original and appellate jurisdiction is also exercised by the High Courts at Fort [illegible] Provinces over European British [illegible] tates, territories and chiefships— [illegible] 4 Gazette of India 1874 Pt I, [illegible] of India 1874 Pt I p 612, No [illegible] India 1875, Pt I, p 404

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for and grant or refuse such application, or it may issue the order in the first instance and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary

Procedure on such application

458 The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct

Territories throughout which High Court may issue such orders

459 (1) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects although such persons are not expressly referred to therein

Application of acts conferring jurisdiction on Magistrates or Courts of Session

(2) Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace

460 In every case triable by jury or with the aid of assessors, in which an European (not being an European British subjects) or an American is the accused person or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans

Jury for trial of Europeans or Americans

461 Whenever an European or American is charged before the Court of Session jointly with a person not an European or American and in compliance with a claim made under section 460 is tried by a jury or with the aid of a set of assessors of which at least one half consists of Europeans and Americans the latter person shall if he so claims be tried separately

Jury when European or American charged jointly with one of another race

462 (1) When a trial is to be held before the Court of Session in which the accused person or one of the accused persons is entitled to be tried by a jury constituted under the provisions of section 450 or section 460 or before the Court of a District Magistrate or Sessions Judge proceeding under section 451 the Court shall, three days at least before the day fixed for holding such trial cause to be summoned in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial

Summoning and empanelling jurors under section 450 451 or 460

(2) The Court shall also, at the same time in like manner cause to be summoned the same number of other persons named in the revised list unless such number of such other persons has been already summoned for trials by jury at that session

(3) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained.

Provided that in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

Conduct of criminal proceedings against European British subjects, etc.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV

LUNATICS

Procedure in case of accused being lunatic.

464. (*1*) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

(*2*) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

Procedure in case of person committed before Court of Session or High Court being lunatic.

465. (*1*) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

(*2*) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

Release of lunatic pending investigation or trial.

466. (*1*) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly

taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf

Custody of lunatic

(2) If the case is one in which bail may not be taken or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government remanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order

Resumption of inquiry or trial

467 (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial and require the accused to appear or be brought before such Magistrate or Court

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence

Procedure on accused appearing before Magistrate or Court

468 (*1*) If, when the accused appears or is again brought before the Magistrate or the Court as the case may be the Magistrate or Court considers him capable of making his defence the inquiry or trial shall proceed

(2) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465 as the case may be

When accused appears to have been insane

469 When the accused appears to be of sound mind at the time of inquiry or trial and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which if he had been of sound mind would have been an offence and that he was at the time when the act was committed by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law the Magistrate shall proceed with the case and if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court as the case may be

Judgment of acquittal on ground of unsoundness

[1]**470** Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary

[1] Cf the Criminal Lunatics Act 1800 (39 & 40 Geo III c 94)

to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be kept in safe custody.

471. (*1*) Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, [1]* * *

[2](*2*) * * * * *
[2](*3*) * * * * *

Power of Local Government to relieve Inspector General of certain functions.

(*4*) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under [1]* * section 473 or section 474.

472. *Lunatic prisoners to be visited by Inspector General.* [*Rep. by Act IV of 1912.*]

Procedure where lunatic prisoner is reported capable of making his defence.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468, and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

474. (*1*) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum, and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall

[1] The words "and shall report the case for the orders of the Local Government" and the word and figures in clause (*4*) of section 472, were repealed by s. 3 and Second Schedule of the Repealing and Amending Act, 1914 (X of 1914), General Acts, Vol. VIII.
[2] Clauses (*2*) and (*3*) of section 471 were repealed by the Indian Lunacy Act, 1912 (IV of 1912), General Acts, Vol. VII.

report to the Local Government, which may order his discharge or detention as it thinks fit

Delivery of lunatic to care of relative

475 (*1*) Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody the Local Government, upon the application of such relative or friend, and, on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend

(2) Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs

(3) The provisions of sections 472 and 474 shall *mutatis mutandis* apply to persons delivered under the provisions of this section and the certificate of the inspecting officer appointed under this section shall be receivable as evidence

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CHAPTER XXXV

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Procedure in cases mentioned in section 195

476 (*1*) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195 and *committed before it or brought under its notice in the course of* a judicial proceeding such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class and may send the accused in custody or take sufficient security for his appearance before such Magistrate and may bind over any person to appear and give evidence on such inquiry or trial

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorised under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate

Power of Court of Session as to such offences committed before itself

477 (*1*) Subject to the provisions of section 444 a Court of Session may charge a person for any offence referred to in section 195 and committed before it or brought under its notice in the course of a judicial proceeding and may commit or admit to bail and try such person upon its own charge

(2) Such Court may direct the Magistrate to cause the attendance o any witnesses for the purposes of the trial

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session

478 (*1*) When any such offence is committed before any Civil c Revenue Court, or brought under the notice of any Civil or Revenu Court in the course of a judicial proceeding, and the case is triabl exclusively by the High Court or Court of Session, or such Civil c Revenue Court thinks that it ought to be tried by the High Court c Court of Session, such Civil or Revenue Court may, instead of sendin the case under section 476 to a Magistrate for inquiry, itself complet the inquiry, and commit or hold to bail the accused person to take hi trial before the High Court or Court of Session, as the case may be

(2) For the purposes of an inquiry under this section the Civil c Revenue Court may, subject to the provisions of section 443, exercise al the powers of a Magistrate, and its proceedings in such inquiry shall b conducted as nearly as may be in accordance with the provisions o Chapter XVIII, and shall be deemed to have been held by a Magistrate

Procedure of Civil or Revenue Court in such cases

479 When any such commitment is made by a Civil or Revenu Court the Court shall send the charge with the order of commitment an the record of the case to the Presidency Magistrate, District Magistrat or other Magistrate authorized to commit for trial, and such Magistrat shall bring the case before the High Court or Court of Session, as th case may be together with the witnesses for the prosecution and defence

Procedure in certain cases of contempt

480 (*1*) When any such offence as is described in section 175, sec tion 178 section 179, section 180 or section 228 of the Indian Pena Code[1] is committed in the view or presence of any Civil, Criminal o Revenue Court, the Court may cause the offender, whether he is a Euro pean British subject or not, to be detained in custody[2] and at any tim before the rising of the Court or the same day may, if it thinks fit, tak cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonmen for a term which may extend to one month, unless such fine be soone paid

(2) Nothing in section 443 or section 444 shall be deemed to apply t proceedings under this section

Record in such cases

481 (*1*) In every such case the Court shall record the facts constitut ing the offence, with the statement (if any) made by the offender, as wel as the finding and sentence

(2) If the offence is under section 228 of the Indian Penal Code,[1] the record shall show the nature and stage of the judicial proceeding in

[1] General Acts Vol I
[2] *See* Sch V Form XXXVIII *infra*

which the Court interrupted or insulted was sitting, and the nature of the interruption or insult

Procedure where Court considers that case should not be dealt with under section 480

482 (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate

(*2*) The Magistrate to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided

When Registrar or Sub Registrar to be deemed a Civil Court, within sections 480 and 482

483 When the Local Government so directs any Registrar or any Sub Registrar appointed under the Indian Registration Act 1877,[1] shall be deemed to be a Civil Court within the meaning of sections 480 and 482

Discharge of offender on submission or apology

484 When any Court has under section 480 [2][or section 482] adjudged an offender to punishment [2][or forwarded him to a Magistrate for trial] for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction

Imprisonment or committal of person refusing to answer or produce document

485 If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant[3] under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing In the event of his

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[1] *See* now the Indian Registration Act 1908 (XVI of 1908) General Acts Vol. VI

[2] These words were inserted by s 2 and first Schedule of the Repealing and Amending Act 1914 (X of 1914) General Acts Vol VIII

[3] *See* Sch. V Form XXXIX, *infra*

persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Appeals from convictions in contempt cases.

486. (*1*) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(*2*) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(*3*) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(*4*) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge or, in the presidency-towns, to the High Court.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

487. (*1*) Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court * * * *[1], shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt[2] of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(*2*) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI

OF THE MAINTENANCE OF WIVES AND CHILDREN

Order for maintenance

488. (*1*) If any person having sufficient means neglects or refuses to

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[1] The words "and the Recorder of Rangoon" were repealed by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 43 and the Second Schedule, Bur. Code.

[2] As to trials for contempt of authority of a Criminal Court or Magistrate in British Baluchistan *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 16, Bal. Code.

maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs of wives and children

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance

(3) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant[1] for levying the amount due in manner hereinbefore provided for levying fines,[2] and may sentence[3] such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made Enforcement of order

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband or that they are living separately by mutual consent the Magistrate shall cancel the order

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons cases

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte* Any order so made may be set aside for good cause shown on application made within three months from the date thereof

[1] See Sch V Form XII *infra*
[2] See ss 386 to 389 *supra*
[3] See Sch V Form XL *infra*

(*7*) The accused may tender himself as a witness, and in such case shall be examined as such

(*8*) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just

(*9*) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child

Alteration in allowance

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded

Enforcement of order of maintenance

490 A copy of the order of maintenance shall be given without payment to the person in whose favour it is made or to his guardian, if any, or to the person to whom the allowance is to be paid, and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non payment of the allowance due

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CHAPTER XXXVII

Directions of the Nature of a Habeas Corpus

Power to issue directions of the nature of a *habeas corpus*

491. (*1*) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law,

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty,

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court,

(*d*) that a prisoner detained as aforesaid be brought before a Court martial or any Commissioners acting under the authority of any commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court martial or Commissioners respectively,

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818,[1] Madras Regulation II of 1819,[2] or Bombay Regulation XXV of 1827,[3] or the State Prisoners Act, 1850,[4] or the State Prisoners Act, 1858.[4]

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. (*1*) The Governor General in Council or the [5]Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

Power to appoint Public Prosecutors.

(2) In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

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[1] Ben. Code.
[2] Mad. Code.
[3] Bom. Code.
[4] General Acts, Vol. I.
[5] For notification [illegible]
to be *ex officio* Publ[illegible]
conduct cases on beh[illegible]
Public Prosecutors [illegible]
see Coorg R. and O. [illegible]

Effect of withdrawal from prosecution.

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police[1] below a rank[2] to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council, but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.[3]

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may,

[1] As to conduct of prosecutions by police-officers in Upper Burma notwithstanding anything in s. 495, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. XIV, Bur. Code; in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 17, Bal. Code.

[2] The rank of a sub-inspector in Ajmere-Merwara, *see* Aj. R. and O.; and in Burma *see* Bur. L. M.; that of first-class head-constable in charge of a police-station in Madras, *see* Mad. R. and O.

[3] The provisions of this Chapter and of Chapter XLII apply, as far as may be, to bail given and bonds executed under s. 137 (4) of the Railways Act, 1890 (IX of 1890), General Acts, Vol. IV.

instead of taking bail from such person, discharge him on his executing a bond[1] without sureties for his appearance as hereinafter provided.

497. (*1*) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused. When bail may be taken in case of non-bailable offence.

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(*3*) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested and may commit him to custody.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police officer or Magistrate be reduced. Power to direct admission to bail or reduction of bail.

499. (*1*) Before any person is released on bail or released on his own bond, a bond[1] for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be. Bond of accused and sureties.

(*2*) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him. Discharge from custody.

(*2*) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

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[1] *See* Sch. V, Form XLII, *infra*.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties.

502. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attendance of witness may be dispensed with.

503. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission and procedure thereunder.

(2) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he, or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may delegate his powers and duties under the com-

mission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

504. (1) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself. Commission in case of witness being within presidency town.

(2) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.[1]

505. (1) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed shall examine the witness upon such interrogatories. Parties may examine witnesses.

(2) Any such party may appear before such Magistrate or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application. Power of provincial Subordinate Magistrate to apply for issue of commission.

507. (1) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record. Return of commission.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872,[2] may also be received in evidence at any subsequent stage of the case before another Court.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned Adjournment of inquiry or trial.

[1] Coll. Stat., Vol. I.
[2] General Acts, Vol. II.

for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI

SPECIAL RULES OF EVIDENCE

Deposition of medical witness.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code although the deponent is not called as a witness.

Power to summon medical witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject matter of his deposition.

Report of Chemical Examiner.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under the Code.

Previous conviction or acquittal how proved.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or,

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

Record of evidence in absence of accused.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his

attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence when offender unknown.

(*2*) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an enquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

CHAPTER XLII

Provisions as to Bonds

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

[1] [2]**514.** (*1*) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.[3]

(*2*) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant[3] for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(*3*) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(*4*) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of

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[1] *See* notes to ss. 112 to 125, *supra*.

[2] This section has been declared to apply to the security required by s. 31A of the Rangoon Police Act, 1899 (IV of 1899), Bur. Code.

[3] *See* Sch. V, Forms XLIV to LIII, *infra*.

the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

Appeal from and revision of, orders under section 514.

[1]515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Power to direct levy of amount due on certain recognizances.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII

OF THE DISPOSAL OF PROPERTY

Order for disposal of property regarding which offence committed.

517. (1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

[2]*Explanation.*—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

[1] S. 515 has been declared to apply to the security required by s. 31A of the Rangoon Police Act, 1899 (Bur. Act IV of 1899), Bur. Code.
[2] *Cf.* the Larceny Act (24 & 25 Vict., c. 96), s. 1.

Orders may take form of reference to District or Sub-divisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

[1]**519.** When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519 passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (*1*) On a conviction under the Indian Penal Code,[2] section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(*2*) The Court may, in like manner, on a conviction under the Indian Penal Code,[3] section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

Power to restore possession of immoveable property.

522. (*1*) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

(*2*) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

Procedure by police upon seizure of property taken under section 51 or stolen.

523. (*1*) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery

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[1] *Cf.* the Criminal Law Amendment Act, 1867 (30 & 31 Vict., c. 35), s. 9.
[2] General Acts, Vol. I.
[3] *Cf.* Larceny Act (24 & 25 Vict., c. 96), s. 1.

of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

Power to sell perishable property.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

High Court may transfer case or itself try it.

526. (*1*) Whenever it is made to appear to the High Court[1]—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

[1] As to the power of the Judicial Commissioner of the North-West Frontier Province to transfer any case to or to direct any accused person to be committed for trial to his Court, see the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), ss. 10, 12, P. and N. W. F. Code.

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code, it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive) but in other respects competent to inquire into or try such offence,

(*ii*) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction

(*iii*) that any particular criminal case or appeal be transferred to and tried before itself or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate it shall, except as provided in section 267 observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested or on its own initiative

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall except when the applicant is the Advocate General be supported by affidavit or affirmation

(*5*) When an accused person makes an application under this section the High Court may direct him to execute a bond with or without sureties conditioned that he will if convicted pay the costs of the prosecutor

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application together with a copy of the grounds on which it is made, and no order shall be made on the merits of the application unless at least twenty four hours have elapsed between the giving of such notice and the hearing of the application

Notice to Public Prosecutor of application under this section.

(*7*) Nothing in this section shall be deemed to affect any order made under section 197

(*8*) If in any criminal case or appeal, before the commencement of the hearing the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of the case the Court

Adjournment on application under this section.

shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

Power of Governor General in Council to transfer criminal cases and appeals.

527. (*1*) The Governor General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court, to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

(*2*) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court

District or Sub divisional Magistrate may withdraw or refer cases

528. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorize District Magistrate to withdraw classes of cases

(*2*) The Local Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases

(*3*) A Magistrate making an order under this section shall record in writing his reasons for making the same

(*4*) The head of a village under Madras Regulation IV of 1821[1] is a Magistrate for the purposes of this section

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CHAPTER XLV.

Of Irregular Proceedings.

Irregularities which do not vitiate proceedings

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search-warrant under section 98;

(*b*) to order, under section 155, the police to investigate an offence,

(*c*) to hold an inquest under section 176;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);

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[1] Mad Code

(*f*) to transfer a case under section 192,
(*g*) to tender a pardon under section 337 or section 338,
(*h*) to sell property under section 524 or section 525, or
(*i*) to withdraw a case and try it himself under section 528,

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered

Irregularities which vitiate proceedings

530 If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely —

(*a*) attaches and sells property under section 88,
(*b*) issues a search warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department,
(*c*) demands security to keep the peace,
(*d*) demands security for good behaviour,
(*e*) discharges a person lawfully bound to be of good behaviour,
(*f*) cancels a bond to keep the peace
(*g*) makes an order under section 133 as to a local nuisance,
(*h*) prohibits under section 143, the repetition or continuance of a public nuisance
(*i*) issues an order under section 144,
(*j*) makes an order under Chapter XII,
(*k*) takes cognizance, under section 190, sub section (*1*), clause (*c*), of an offence,
(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate
(*m*) calls, under section 435 for proceedings,
(*n*) makes an order for maintenance,
(*o*) revises, under section 515, an order passed under section 514,
(*p*) tries an offender
(*q*) tries an offender summarily, or
(*r*) decides an appeal,

his proceedings shall be void

Proceedings in wrong place

531 No finding sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division district, sub division or other local area, unless it appears that such error has in fact occasioned a failure of justice

When irregular commitments may be validated.

532 (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court the Court to which the commitment is made may, after perusal of the proceedings,

accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority

(2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate

Non compliance with provisions of section 164 or 364

533 (*1*) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded, and, notwithstanding anything contained in the Indian Evidence Act, 1872,[1] section 91, such 1 of statement shall be admitted if the error has not injured the accused as to his defence on the merits

(2) The provisions of this section apply to Courts of Appeal, Reference and Revision

Omission to ask question prescribed by section 454 (2)

534 An omission to ask any person whether he is an European British subject, in a case to which sub section (2) of section 454 applies, shall not affect the validity of any proceeding

Effect of omission to prepare charge.

535 (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge

Trial by jury of offence triable with assessors.

536 (*1*) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid

Trial with assessors of offence triable by jury

(2) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding

Findi g or

[2]537 [3] Subject to the provisions hereinbefore contained, no finding,

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[1] General Acts Vol II

c 43) s 9

al Larganas orders are respectively the Upper

art XV Bur Code the British Baluchistan Criminal Justice Legislation 18 (VIII of 1896) Schedule art 19, Bal Code and s 4 (VII) of the Santhal Larganas Justice Regulation 1893 (V of 1893), P and O Code.

sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII of an appeal or revision on account— sentence when reversible by reason of error or omission in charge or other proceedings

(a) of any error, omission or irregularity in the complaint, summons warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(b) of the want of or any irregularity in any sanction required by section 195, or any irregularity in proceedings taken under section 476, or

(c) of the omission to revise any list of jurors or assessors in accordance with section 324 or

(d) of any misdirection in any charge to a jury unless such error, omission, irregularity, want or misdirection has in fact occasioned a failure of justice

Explanation—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings

Illustration

A Magistrate being required by law to sign a document signs it by initials only This is purely an irregularity and does not affect the validity of the proceeding

538 No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

CHAPTER XLVI

MISCELLANEOUS

539 Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown or any Commissioner or other person appointed by such Court for that purpose or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland Courts and persons before whom affidavits may be sworn.

540 Any Court may, at any stage of any inquiry trial or other proceeding under this Code, summon any person as a witness or examine any person in attendance, though not summoned as a witness or recall Power to summon material witness or

examine person present.

and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power to appoint place of imprisonment.

541. (*1*) Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place[1] any person liable to be imprisoned or committed to custody under this Code shall be confined.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(*3*) When a person is removed to a criminal jail under sub-section (*1*), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure[2], or XIV

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.[2] XIV

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (*1*) Notwithstanding anything contained in the *Prisoners' Testimony Act, 1869*,[3] any Presidency Magistrate desirous of examining, as XV a witness or an accused person in any case pending before him any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesses.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal

[1] A place so appointed is not a "prison" within the meaning of s. 3 (*1*) (*b*) of the Prisons Act, 1894 (IX of 1894), General Acts, Vol. IV.
For notifications declaring places for the confinement of European British subjects to be imprisoned or committed for custody under the Code, see Ben. R. and O.
[2] See now the Code of Civil Procedure, 1908 (V of 1908), s. 58, and the Provincial Insolvency Act, 1907 (III of 1907), s. 16, General Acts, Vol. VI.
[3] See now the Prisoners Act, 1900 (III of 1900), General Acts, Vol. V.

Court may, if it thinks fit order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code [1]

[2]545 (1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment order the whole or any part of the fine recovered to be applied— Power of Court to pay expenses or compensation out of fine

(a) in defraying expenses properly incurred in the prosecution

(b) in compensation for the injury caused by the offence committed where substantial compensation is in the opinion of the Court, recoverable by civil suit

(2) If the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal

546 At the time of awarding compensation in any subsequent civil suit relating to the same matter the Court shall take into account any sum paid or recovered as compensation under section 545 Payments to be taken into account in subsequent suit

547 Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine Moneys ordered to be paid recoverable as fines.

548 If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith Copies of proceedings.

Provided that he pays for the same unless the Court for some special reason thinks fit to furnish it free of cost

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[1] For rules made in exercise of these powers for—
(1) Ajmere Merwara see Aj R and O
(2) Assam see Assam R and O
(3) Bombay see Bom R and O
(4) Burma see Bur R M
(5) Central Provinces see C P P and O
(6) Madras see Mad R and O
(7) Punjab see Punj R and O
(8) United Provinces see U P R and O

[2] In Upper Burma the Court imposing a fine or confirming a sentence of an officer under s 9 (4) of the Upper Burma Ruby Regulation 1887 (XII of 1887) may presume for the purposes of s 545 that injury has been caused by the offence and that substantial compensation is recoverable by civil suit in respect to the injury—see s 9 (5) of that Regulation Bur Code

Delivery to military authorities of persons liable to be tried by Court-martial.

549. (*1*) The Governor General in Council may make[1] rules, consistent with this Code and the Army Act[2] or any similar law for the time being in force as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial,[1] and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act,[2] section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial. [44 & 45 Vict. c. 58.]

Apprehension of such persons.

(*2*) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers of police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation to persons groundlessly given in charge in presidency-towns.

553. (*1*) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person

[1] For notification making rules as to cases in which persons subject to military law shall be tried by a Court to which the Code applies or by a Court-martial, see Gazette of India, 1902, Pt. I, p. 3; [illegible] and O.

[2] [illegible] Stat., V. I, II.

so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

554. (1) With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts. Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

(2) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,— Power of other High Courts to make rules for other purposes.

(*a*) make [1]rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame[2] forms for every proceeding in the said Courts for which it thinks that a form should be provided[3],

(*c*) [4]make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it[5], and

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[1] For rules for the preparation and transmission of statements in Coorg, see Coorg District Gazette, 1907, Pt. I, p. 51.
For rules under this section by the Court of the Judicial Commissioner in Sindh, see Bom. R. and O.

[illegible]

[illegible] Code.

[5] For rules regulating the practice of the Chief Court of Lower Burma and of subordinate Criminal Courts in trials or appeals in which military policemen or reservists of the Native Army are concerned, see Bur. R. M.
For rules by the Chief Court of Lower Burma to regulate practice and procedure in cases of appeal, reference and revision, see Bur. R. M.
For rules by the Judicial Commissioner in Sindh, see Bom. R. and O.

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines.

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(*3*) All rules made under this section shall be published in the local official Gazette.

Forms.

555. Subject to the power conferred by section [554][1] and by section [2][107 of the Government of India Act, 1915], the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

Case in which Judge or Magistrate is personally interested.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner[3] or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

Pleader not to sit as Magistrate in certain Courts.

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

Power to decide language of Courts.

558. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the

[1] These figures were substituted for the figures "553" by the Repealing and Amend[illegible]

[3] Or a member of a District Board in the Punjab—*see* s. 58 of the Punjab District Boards Act, 1883 (XX of 1883); P. and N. W. F. Code [illegible] —*see* s. 223 of the Punjab Muni[illegible] [illegible]urma—*see* the Burma Municipal [illegible] the Central Provinces—*see* the [illegible] II, C. P. Code.

territories administered by such Government, other than the High Courts established by Royal Charter.[1]

Powers of Governor General in Council and Local Government exerciseable from time to time.

559. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Officers concerned in sales not to purchase or bid for property.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police officer, with respect to such an offence as is referred to in sub section (*1*), no police officer of a rank below that of police inspector shall be employed either to make, or to take part in, the investigation.

First Offenders

Power to Court to release upon probation of good conduct instead of sentencing to punishment.

562. In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any other offence under the Indian Penal Code[2] punishable with not more than two years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, and during such period (not exceeding one year) as the Court may direct to appear and receive sentence when called upon and in the meantime to keep the peace and be of good behaviour.

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[1] For notification declaring the language of such Courts in the Rangoon Town District and in Burma elsewhere, *see* Bur. R. M.

[2] General Acts, Vol. I.

Provided that, where any first offender is convicted by a Magistrate of the third class or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Provision in case of offender failing to observe conditions of his recognizances.

563. (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

Conditions as to abode of offender.

564. (1) The Court, before directing the release of an offender under section 562, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(2) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897.[1] V

Previously convicted Offenders.

Order for notifying address of previously convicted offender.

565. (1) When any person, having been convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code[2] with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub divisional Magistrate, or any Magistrate of the first class specially empowered by the Local Government in this behalf, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence. X

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

[1] General Acts, Vol. IV.
[2] General Acts, Vol. I.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may make rules[1] to carry out the provisions of this section relating to the notification of residence by released convicts

(*4*) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code [2] XLV of 1860.

SCHEDULE I.

ENACTMENTS REPEALED [*Repealed by Act X of 1914*]

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[1] For rules as to the notification of residence by released convicts in—
(*1*) Bombay, *see* Bom R and O,
(*2*) Burma, *see* Bur R M
(*3*) Bengal, *see* Ben R and O,
(*4*) Central Provinces, *see* C P R and O
(*5*) Madras, *see* Mad R and O,
(*6*) Punjab, *see* Punj R and O,
(*7*) Assam, *see* Assam R and O,
(*8*) Coorg, *see* Coorg R and O

[2] General Acts, Vol I

SCHEDULE II

Tabular Statement of Offences

Explanatory Note —The entries in the second and seventh columns of this schedule headed respectively "Offence" and "Punishment under the Indian Penal Code" are not intended *as definitions of the offences* and punishments described in the several corresponding sections of the Indian Penal Code or even as abstracts of those sections but merely as references to the subject of the section the number of *which is given in the first column*

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay

Chapter V — Abetment

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without *warrant or not.*	Whether a warrant or a summons shall ordinarily issue in the first instance	*Whether* bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	*By what Court* triable
109	Abetment of any offence if the act abetted is committed in consequence and where no express provision is made for its punishment	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the *offence* abetted is compoundable or not	The same punishment *as for* the offence abetted	The Court by which the offence abetted is triable
110	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor	Ditto	*Ditto*	*Ditto*	*Ditto*	*D tto*	*Ditto*

[1] XLV of 1860

111	Abetment of any offence, when one act is abetted and a different act is done, subject to the proviso	Ditto	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted	Ditto
113	Abetment of any offence when an effect is caused by the act abetted different from that intended by the abettor	Ditto	Ditto	Ditto	Ditto	The same punishment as for the offence committed	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine	Ditto
	If an act which causes harm be done in consequence of the abetment	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine	Ditto.
116	Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	Ditto

[1] General Acts Vol I

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable
116 —*contd.*	If the abettor or the person abetted be a public servant whose duty it is to prevent *the offence.*	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not	Imprisonment extending to half of the longest term, and of any description, provided for the offence or fine or both.	The Court by which the offence abetted is triable
117	Abetting the commission of an offence by *the public, or by more* than ten persons	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both	Ditto
118	Concealing a design to commit an offence *punishable with death* or transportation for life, if the offence be committed	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine	Ditto
	If the offence be not committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto

LV of 1860.

119	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both	Ditto
	If the offence be punishable with death or transportation for life	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years	Ditto
	If the offence be not committed	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	Ditto
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If the offence be not committed	Ditto	Ditto	Ditto	Ditto	Imprisonment extending to one eighth part of the longest term, and of the description provided for the offence, or fine, or both	Ditto

[1] General Acts, Vol I.

SCHEDULE II—*continued.*

[1][CHAPTER V A.—CRIMINAL CONSPIRACY.]

XLV of 1860.

1	2	3	4	5	6	7	8
Section	Offence	Whether the Police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [2]	By what Court triable
120B	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence which is the object of the conspiracy	According as the offence which is the object of the conspiracy is bailable or not	Not compoundable	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court; in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class
	Any other criminal conspiracy	Shall not arrest without a warrant.	Summons	Bailable	Ditto	Imprisonment of either description for six months and fine or both	Presidency Magistrate or Magistrate of the first class.]

CHAPTER VI.—OFFENCES AGAINST THE STATE

1	2	3	4	5	6	7	8
121	Waging or attempting to wage war or abetting the waging of war, against the Queen	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Death or transportation for life and forfeiture of property	Court of Session

121A	Conspiring to commit certain offences against the State. [1]	Ditto	Ditto	Ditto	Ditto	Transportation for life or any shorter term or imprisonment of either description for 10 years	Ditto
122	Collecting arms, etc., with the intention of waging war against the Queen [2]	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property	Ditto
123	Concealing with intent to facilitate a design to wage war	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
124	Assaulting Governor General, Governor, etc., with intent to compel or restrain the exercise of any lawful power	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto
124A	Sedition	Ditto	Ditto	Ditto	Ditto	Transportation for life or for any term and fine or imprisonment of either description for 3 years and fine, or fine	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf
125	Waging war against any Asiatic Power in alliance or at peace with the Queen or abetting the waging of such war	Ditto	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine	Court of Session

[1] This chapter was inserted by S. 6 and the Schedule of the Indian Criminal Law Amendment Act, 1913 (VII of 1913), General Acts, Vol. VII.
[2] General Acts, Vol. I.

SCHEDULE II—*continued.*

Chapter VI.—Offences against the State—*concluded.*

1	2	3	4	5	6	7	8
of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen	Shall not arrest without warrant	Warrant	Not bailable.	Not compoundable	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Court of Session
127	Receiving property taken by war or depredation mentioned in sections 125 and 126	Ditto	Ditto	Ditto	Ditto	Ditto.	Ditto
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine	Ditto
129	*Public* servant negligently suffering prisoner of State or war in his custody to escape	*Ditto*	*Ditto*	*Bailable*	*Ditto*	*Simple imprisonment* for 3 years and fine.	*Court of Session,* Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner	Ditto	Ditto	Not bailable	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session.

CHAPTER VII —OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny or attempting to seduce an officer, soldier or sailor from his allegiance or duty	May arrest without warrant	Warrant	Not bailable	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine	*Court of Session*
132	Abetment of mutiny if mutiny is committed in consequence thereof	Ditto	Ditto .	Ditto	Ditto	Death, or transportation for life, or imprisonment of either description for 10 years, and fine	Ditto
133	Abetment of an assault by an officer soldier or sailor on his superior officer when in the execution of his office	Ditto	Ditto .	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
134	Abetment of such assault, if the assault is committed	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session
135	Abetment of the desertion of an officer, soldier or sailor	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
136	Harbouring such an officer soldier or sailor, who has deserted	Ditto	Ditto	Ditto	Ditto	Ditto . .	Ditto
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof	Shall not arrest without warrant	Summons	Ditto	Ditto	Fine of 500 rupees	Ditto

SCHEDULE II—*continued.*

CHAPTER VII —OFFENCES RELATING TO THE ARMY AND NAVY—*concluded*

1	2	3	4	5	6	7	8
of 1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate or Magistrate of the first class or second class
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate

CHAPTER VIII —OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

1	2	3	4	5	6	7	8
✓143	Being member of an unlawful assembly	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate

(Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity.)

✓ 144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
✓ 147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
✓ 148	Rioting, armed with a deadly weapon	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class
149	If an offence be committed by any member of an unlawful assembly every other member of such assembly shall be guilty of the offence	According as arrest may be made without warrant for the offence or not	According as a warrant or summons may issue for the offence	According as the offence is bailable or not	Ditto	The same as for the offence	The Court by which the offence is triable
150	Hiring, engaging or employing persons to take part in an unlawful assembly	May arrest without warrant	According to the offence committed by the person hired, engaged or employed	Ditto	Ditto	The same as for a member of such assembly and for any offence committed by any member of such assembly	Ditto

[1]General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1	2	3	4	5	6	7	8
of 1860. Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate
152	Assaulting or obstructing public servant when suppressing riot, etc	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
✓153	Wantonly giving provocation with intent to cause riot, if rioting be committed	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both	Any Magistrate.
	If not committed	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

153A	Promoting enmity between classes	Shall not arrest without warrant	Warrant	Not bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class
154	Owner or occupier of land not giving information of riot, etc	Ditto	Summons	*Bailable*	*Ditto*	*Fine of 1,000 rupees*	Presidency Magistrate or Magistrate of the first or second class
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it	Ditto	Ditto	Ditto	Ditto	Fine	Ditto
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
157	Harbouring persons hired for an unlawful assembly	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both	Ditto
158	Being hired to take part in an unlawful assembly or riot	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
159	Or to go armed	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto

SCHEDULE II—*continued*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*concluded*

1	2	3	4	5	6	7	8
Section of 1860	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
160	Committing affray	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for one month, or fine of 100 rupees, or both	Any Magistrate

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS

1	2	3	4	5	6	7	8
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 3 years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class
162	Taking a gratification in order by corrupt or illegal means to influence a public servant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter IX.—Offences by or relating to Public Servants.)

163	Taking a gratification for the exercise of personal influence with a public servant	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first class
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine or both	Presidency Magistrate or Magistrate of the first or second class
166	Public servant disobeying a direction of the law with intent to cause injury to any person	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both	Ditto
167	Public servant framing an incorrect document with intent to cause injury	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concluded*

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
168	Public servant unlawfully engaging in trade	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first class
169	Public servant unlawfully buying or bidding for property	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property if purchased	Ditto
170	Personating a public servant	May arrest without warrant	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years or fine, or both	Any Magistrate
171	Wearing garb or carrying token used by public servant with fraudulent intent	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months or fine of 200 rupees, or both	Ditto

[1] XLV of 1860.

CHAPTER X.—CONTEMPTS OF THE LAWFUL [1]AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceedings from a public servant	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Any Magistrate
	If summons or notice require attendance in person, etc., in a *Court of Justice.*	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months or fine of 1,000 rupees, or both	Ditto
173	Preventing the service or the affixing of any summons or notice or the removal of it when it has been affixed or preventing a proclamation	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Presidency Magistrate or Magistrate of the first or second class
	If summons, etc., require attendance in person, etc., in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto
174	Not obeying a legal order to attend at a certain place in person or by agent or departing therefrom without authority	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Any Magistrate
	If the order require personal attendance, etc., in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees *or both*	Ditto

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
175	*Intentionally omitting* to produce a document *to a public* servant by a person legally bound to produce or deliver such document	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both	The Court in which the offence is committed subject to the provisions of Chapter XXXV, or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class
	If the document is required to be produced in or delivered to a *Court of Justice.*	Ditto	Ditto	Ditto	Ditto	Simple imprisonment *for 6 months, or* fine of 1,000 rupees, or both	Ditto
176	Intentionally omitting to give notice or in*formation to a public* servant by a person *legally bound to give* such notice or information	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine *of 500 rupees, or* both	Presidency Magistrate *or Magistrate of the first or second* class

.V of 1860

(*Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.*)

	If the notice or information required respects the commission of an offence, etc	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

SCHEDULE II—*continued.*

CHAPTER X —CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued*

V of 1860

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
180	Refusing to sign a statement made to a public servant when legally required to do so	Shall not arrest without warrant	Summons	Bailable	Not compoundale	Simple imprisonment for 3 months, or fine of 500 rupees, or both	The Court in which the offence is committed, subject to the provisions of Chapter XXXV, or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class
181	Knowingly stating to a public servant on oath as true that which is false	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both	Presidency Magistrate or Magistrate of the first or second class

183	Resistance to the taking of property by the lawful authority of a public servant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees or both	Ditto
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto
187	Omission to assist public servant when bound by law to give such assistance	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months or fine of 500 rupees or both.	Ditto.

[1] General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1	2	3	4	5	6	7	8
860 Section	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
188	Disobedience to an order *lawfully* promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for 1 month, or fine of 200 rupees, or both	Presidency Magistrate or Magistrate of the first or second class
	If such disobedience causes danger to human life, health or safety, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either *description* for 6 months, or fine of 1 000 rupees, or both	Ditto
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine or both	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants. Chapter XI.—False Evidence and Offences against Public Justice.)

190	Threatening any person to induce him to refrain from making a legal application for protection from injury	Ditto	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both	Ditto
	CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE						
193	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant	Bailable .	Not compoundable	Imprisonment of either description for 7 years, and fine	*Court of Session, Presidency Magistrate or Magistrate of the first class
	Giving or fabricating false evidence in any other case	Ditto	Ditto .	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Ditto
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto . .	Ditto . .	Not bailable	Ditto	Transportation for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed	Ditto . .	Ditto . .	Ditto .	Ditto	Death or as above.	Ditto

* General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

560.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without *warrant or not.*	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards	Shall not arrest without warrant.	Warrant .	[2][Not bailable]	Not compoundable	The same as for the offence	Court of Session
196	Using in a judicial proceeding evidence *known to be false or* fabricated.	Ditto . .	Ditto	According as the off-*ence of* giving such evidence is bailable or not.	Ditto .	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate *or Magistrate* of the first class
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto .	Ditto . .	Bailable .	Ditto .	The same as for giving false evidence.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice*)

198	Using as a true certificate one known to be false in a material point	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
199	False statement made in any declaration which is by law receivable as evidence	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
200	*Using as true any such* declaration known to be false	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session
	If punishable with transportation for life or imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If punishable with less than 10 years' imprisonment	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable

[1] General Acts Vol I
[2] The words "[illegible] t bailable" were substituted for the word "Bailable" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), [illegible]neral Acts Vol. V

SCHEDULE II—*continued.*

CHAPTER XI —FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
Section	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
202	Intentional omission to give information of an offence by a person legally bound to inform	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
203	Giving false information respecting an offence committed	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II[1]—Tabular Statement of Offences Chapter XI —False Evidence and Offences against Public Justice)

206	Fraudulent removal or *concealment etc*, of property to prevent its seizure as a forfeiture or in satisfaction of a fine under sentence or in execution of a decree	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine or both	Presidency Magistrate or Magistrate of the first or second class
207	Claiming property without right or practising deception touching any right to it, to prevent its being taken as a forfeiture or in satisfaction of a fine under sentence or in execution of a decree	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
208	Fraudulently suffering a decree to pass for a sum not due or suffering decree to be executed after it has been satisfied	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine	Ditto
210	Fraudulently obtaining a decree for a sum not due or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto

[1] General Acts, Vol. I

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
211	False charge of offence made with intent to injure.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
	If offence charged be punishable with imprisonment for 7 years or upwards	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	*Ditto* . .	*Ditto* . .	*Ditto* .	Ditto .	Ditto . . .	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.

	If punishable with imprisonment for 1 year and not for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable
213	Taking gift, etc., to screen an offender from punishment if the offence be capital	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for either description for 7 years, and fine	Court of Session
	If punishable with transportation for life or with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency [1] Magistrate or Magistrate of the first class
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class or Court by which the offence is triable
214	Offering gift or restoration of property in consideration of screening offender if the offence be capital	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session
	If punishable with transportation for life or with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

[1] General Acts, Vol. I.

SCHEDULE II—*continued*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable *or not*	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
214—*contd*	If with imprisonment for less than 10 years	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class or Court by which the offence is triable
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

	If punishable with transportation for life or with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years with or without fine	Ditto
	If with imprisonment for 1 year, and not for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable
216A	Harbouring robbers or dacoits	Ditto	Ditto	Ditto	D tto	Rigorous imprisonment for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture	Shall not arrest without warrant	Summons	Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.	Presidency Magistrate or Magistrate of the first or second class
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session
210	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine or both	Ditto

SCHEDULE II —*continued*

CHAPTER XI —FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
of 1860 Section.	*Offence*	Whether the police may arrest without warrant or not	*Whether* a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 7 years, or fine, or both	Court of Session
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender if the offence be capital	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto
	If punishable with transportation for life, or imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine	Presidency Magistrate or Magistrate of the first or second class

(Schedule II.—Tabular Statement of Offences Chapter XI.—False Evidence and Offences against Public Justice)

_22	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death	Ditto .	Ditto . .	Not bailable	Ditto .	Transportation for life, or imprisonment of either description for 14 years, with or without fine	Court of Session
	If, under sentence of transportation or penal servitude for life, or transportation imprisonment or penal servitude for 10 years or upwards	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, with or without fine.	Ditto
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
223	Escape from confinement negligently suffered by a public servant	Ditto . .	Summons .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both	Ditto
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto

[1] General Acts, Vol. I

SCHEDULE II—*continued*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
225—*contd*	If charged with an offence punishable with transportation for life or imprisonment for 10 years	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If charged with a capital offence	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Court of Session
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If under sentence of death	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto

[1] 1860

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

225A	Omission to apprehend, or sufferance of escape on part of public servant in cases not otherwise provided for—						
	(a) in cases of intentional omission or sufferance.	Shall not arrest without warrant	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
	(b) in case of negligent omission or sufferance	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years or fine, or both	Presidency Magistrate or Magistrate of the first or second class
225B	Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for	May arrest *without* warrant	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both	Ditto
226	Unlawful return from transportation	Ditto	Ditto	Not bailable	Ditto	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation	Court of Session
227	Violation of condition of remission of punishment	Shall not arrest without warrant	Summons	Ditto	Ditto	Punishment of original sentence, or, if part of the punishment has been undergone, the residue	The Court by which the original offence was triable.
228	*Intentional insult* or interruption to a public servant sitting in any stage of a judicial proceeding	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	The Court in which the offence is committed, subject to the provisions of Chapter XXXV

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compound able or not	Punishment under the Indian Penal Code.[1]	By what Court triable.
229	Personation of a juror or assessor.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

1	2	3	4	5	6	7	8
231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

234	Making buying or selling instrument for the purpose of counterfeiting the Queen's coin	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If Queen's coin	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India	Ditto
237	Import or export of counterfeit coin knowing the same to be counterfeit	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Court of Session
239	Having any counterfeit coin known to be such when it came into possession, and delivering etc the same to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine	Court of Session Presidency Magistrate or Magistrate of the first class

[1] General Acts Vol. I

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
240	The same with respect to the Queen's coin.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session
245	Unlawfully taking from a Mint any coining instrument	Ditto	Ditto	Ditto	Ditto .	Ditto	Ditto
246	Fraudulently diminishing the weight or altering the composition of any coin	Ditto	Ditto .	Ditto	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Ditto
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto
250	Delivery to another of coin possessed with the knowledge that it is altered	Ditto .	Ditto .	Ditto .	Ditto	Imprisonment of either description for 5 years, and fine	Ditto.

SCHEDULE II—*continued.*

CHAPTER XII —OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued*

1	2	3	4	5	6	7	8
360 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
251	Delivery of Queen's coin possessed with the knowledge that it is altered	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Ditto
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine	Ditto
254	Delivery to another of coin as genuine which, when first possessed the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II —Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.*)

255	Counterfeiting a Government stamp.	Ditto . .	Ditto . .	Bailable .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a *Government stamp*	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
258	*Sale of counterfeit* Government stamp	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto
259	*Having possession of* a counterfeit Government stamp	*Ditto* . .	*Ditto* . .	*Ditto* .	*Ditto* .	*Ditto* . . .	Court of Session, Presidency Magistrate or Magistrate of the first class
260	*Using as genuine a* Government stamp known to be counterfeit	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government *stamp*, or removing from a document a stamp used for it with intent to cause loss to Government	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded*

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
262	Using a Government stamp known to have been before used	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
263	Erasure of mark denoting that stamp has been used	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
263A	Fictitious stamps	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees	Presidency Magistrate or Magistrate of the first class

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES

1	2	3	4	5	6	7	8
264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

(*Schedule II —Tabular Statement of Offences. Chapter XIII —Offences relating to Weights and Measures. Chapter XIV —Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

266	Being in possession of false weights or measures for fraudulent use	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
267	Making or selling false weights or measures for fraudulent use	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	CHAPTER XIV —OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.						
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
270	Malignantly doing any act known to be likely to spread infection *of any disease dangerous to life*	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
271	Knowingly disobeying any quarantine rules	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both	Ditto.
272	*Adulterating food or* drink intended for sale, so as to make the same noxious	*Ditto*	*Ditto*	*Ditto*	*Ditto*	*Imprisonment of* either description for 6 months, or fine of 1,000 rupees, or both.	*Ditto*
273	Selling any food or drink as food and drink knowing the same to be noxious	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

[1] General Acts, Vol I

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may *arrest without* warrant or not.	Whether a warrant or a summons *shall ordinarily* issue in the first instance.	Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy or to change its operation, or to make it noxious.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
276	Knowingly, selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto

(*Schedule II —Tabular Statement of Offences Chapter XIV —Offences affecting the Public Health, Safety, Convenience, Decency and Morals*)

277	Defiling the water of a public spring or reservoir	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees or both	Any Magistrate
278	Making atmosphere noxious to health	Shall not arrest without warrant	Ditto	Ditto	Ditto	Fine of 500 rupees	Ditto
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1 000 rupees, or both	Ditto
280	Navigating any vessel so rashly or negligently as to endanger human life etc	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class
281	Exhibition of a false light mark or buoy	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 7 years or fine, or both	Court of Session
282	Conveying for hire any person by water in a vessel in such a state or so loaded as to endanger his life	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months or fine of 1 000 rupees or both	Presidency Magistrate or Magistrate of the first or second class
283	Causing danger obstruction or injury in any public way or line of navigation	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable.
284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both	Presidency Magistrate or Magistrate of the first or second class.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	*Ditto*	*Ditto*	*Ditto*	*Ditto*	*Any Magistrate.*
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

283	A person omitting to guard against probable danger to human life by the fall of any building over which he has right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
289	A person omitting to take order with any animal in his possession so as to guard against danger to human life or of grievous hurt from such animal	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Any Magistrate
290	Committing a public nuisance	Shall not arrest without warrant	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto
291	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Ditto	Ditto	Ditto	Simple imprisonment for 6 months or fine or both	Presidency Magistrate or Magistrate of the first or second class
292	Sale etc of obscene books etc	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 months or fine or both	Ditto
293	Having in possession obscene books etc., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals. Chapter XV.—Offences relating to Religion.*)

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
294A	Keeping a lottery office	Shall not arrest without warrant.	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.
	CHAPTER XV.—OFFENCES RELATING TO RELIGION.						
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
296	Causing a disturbance to an assembly engaged in religious worship	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for one year, or fine, or both.	Ditto.

297	Trespassing in place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion o any person, or offering indignity to a *human corpse*	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling	Shall not arrest without warrant	Ditto	Ditto	Compoundable.	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

302	Murder	May arrest without warrant	Warrant	Not bailable	Not compoundable.	Death or transportation for life and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life	Ditto	Ditto	Ditto	Ditto	Death	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine	Ditto

SCHEDULE II—*continued.*

CHAPTER XVI —OFFENCES AFFECTING THE HUMAN BODY—*continued*

Of Offences affecting Life—continued

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
304—*contd*	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 10 years, or fine, or both	Court of Session
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
305	Abetment of suicide committed by a child or insane or delirious person or an idiot, or a person intoxicated	Ditto	Ditto	Not bailable	Ditto	Death, or transportation for life, or imprisonment for 10 years and fine	Court of Session
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto

(*Schedule II —Tabular Statement of Offences Chapter XVI —Offences affecting the Human Body*)

307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto
	Attempt by life convict to murder if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Death or as above	Ditto
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years or fine, or both	Ditto
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years or fine or both	Ditto
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year or fine or both	Presidency Magistrate or Magistrate of the first or second class
311	Being a thug	Ditto	Ditto	Not bailable	Ditto	Transportation for life and fine	Court of Session

Of the Causing of Miscarriage of Injuries to Unborn Children of the Exposure of Infants and of the Concealment of Births

312	Causing miscarriage	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session

SCHEDULE II—*continued*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued*

Of the Causing of Miscarriage, of Injuries to Unborn Children, of the Exposure of Infants and of the Concealment of Births—continued

1	2	3	4	5	6	7	8
of 1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
312—*contd*	If the woman be quick with child	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Ditto
314	Death caused by an act done with intent to cause miscarriage	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Ditto
	If act done without woman's consent.	Ditto	Ditto	Ditto	Ditto	Transportation for life or as above	Ditto
315	Act done with intent to prevent a child being born alive or to cause it to die after its birth.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine or both	Ditto

316	Causing death of a quick unborn child by an act amounting to culpable homicide	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it	May arrest without warrant	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years or fine, or both	Ditto
318	Concealment of birth by secret disposal of dead body	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class
				Of Hurt			
323	Voluntarily causing hurt	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for 1 year or fine of 1 000 rupees or both	Any Magistrate
324	Voluntarily causing hurt by dangerous weapons or means	May arrest without warrant	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 3 years or fine, or both	Court of Session Presidency Magistrate or Magistrate of the first or second class
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto

SCHEDULE II—*continued.*

CHAPTER XVI —OFFENCES AFFECTING THE HUMAN BODY—*continued*

Of Hurt—continued

1	2	3	4	5	6	7	8
of 1860. Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
326	Voluntarily causing grievous hurt by dangerous weapons or means	May arrest without warrant	Summons	Not bailable	Not compoundable	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
327	Voluntarily causing hurt to extort property or a valuable security, *or to constrain to* do anything which is illegal or which may facilitate the commission of an offence	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 10 years and fine	Court of Session
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

(*Schedule II —Tabular Statement of Offences Chapter XVI —Offences affecting the Human Body*)

329	Voluntarily causing grievous hurt to extort property or a valuable security or to constrain to do anything which is illegal or which may facilitate the commission of an offence	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Ditto
330	Voluntarily causing hurt to extort confession or information or to compel restoration of property etc	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years, and fine	Ditto
331	Voluntarily causing grievous hurt to extort confession or information or to compel restoration of property, etc	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years, and fine	Ditto
332	Voluntarily causing hurt to deter public servant from his duty	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
333	Voluntarily causing grievous hurt to deter public servant from his duty	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years, and fine	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate

[1] General Acts, Vol. I

SCHEDULE II—*continued*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued*

Of Hurt—concluded

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
335	Causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation	May arrest without warrant	Summons	Bailable	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 4 years or fine of 2,000 rupees, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others	Ditto	Ditto	Ditto	Not compoundable	Imprisonment of either description for 3 months or fine of 250 rupees, or both	Any Magistrate
337	Causing hurt by an act which endangers human life, etc	Ditto	Ditto	Ditto	Compoundable when permission is given by the Court	Imprisonment of either description for 6 months, or fine of 500 rupees, or both	Presidency Magistrate or Magistrate of the first or second class

					before which a prosecution is pending		
338	Causing grievous hurt by an act which endangers human life, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine of 1 000 rupees, or both	Ditto

Of Wrongful Restraint and Wrongful Confinement

341	Wrongfully restraining any person	May arrest without warrant	Summons	Bailable	Compoundable	Simple imprisonment for 1 month or fine of 500 rupees or both	Any Magistrate
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1 000 rupees or both	Presidency Magistrate or Magistrate of the first or second class
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Not compoundable	Imprisonment of either description for 2 years or fine or both	Ditto
344	Wrongfully confining for 10 or more days	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class

[1] General Acts Vol I

SCHEDULE II—*continued*

CHAPTER XVI —OFFENCES AFFECTING THE HUMAN BODY—*continued*

Of Wrongful Restraint and Wrongful Confinement—continued

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation	Shall not arrest without warrant.	Summons	Bailable	Not compoundable	Imprisonment of either description for 2 years, in addition to imprisonment under any other section	Court of Session, Presidency Magistrate or Magistrate of the first or second class
346	Wrongful confinement in secret	May arrest without warrant	Ditto	Ditto	Ditto .	Ditto . . .	Ditto
347	Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine	Ditto
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling a restoration of property, etc.	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class

Of Criminal Force and Assault

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for 3 months or fine of 500 rupees, or both	Any Magistrate
353	Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant	Ditto	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
354	Assault or use of criminal force to a woman with intent to outrage her modesty	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons	Ditto	Compoundable	Ditto	Ditto
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant	Warrant	Not bailable	Not compoundable	Ditto	Any Magistrate
357	Assault or use of criminal force in attempt wrongfully to confine a person	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both	Ditto

SCHEDULE II —*continued*

Chapter XVI —Offences affecting the Human Body—*continued*

Of Criminal Force and Assault—continued

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
358	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Simple imprisonment for 1 month or fine of 200 rupees or both	Any Magistrate
	Of Kidnapping, Abduction, Slavery and Forced Labour						
363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Ditto	Transportation for life or rigorous imprisonment for 10 years and fine	Court of Session

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

365	Kidnapping or abducting with intent secretly and wrongfully to confine a person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person	Ditto	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction	Ditto.
369	Kidnapping or abducting a child with intent to take property *from the person* of such child	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant	Ditto	Bailable	Ditto	Ditto	Court of Session.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto
372	Selling or letting to hire a minor for purposes of prostitution	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I

SCHEDULE II—continued

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—concluded

Of Kidnapping, Abduction, Slavery and Forced Labour—continued

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
373	Buying or obtaining possession of a minor for the same purposes	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 10 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
374	Unlawful compulsory labour	Ditto	Ditto	Bailable	Compoundable	Imprisonment of either description for 1 year, or fine, or both	Any Magistrate
	Of Rape						
376	Rape— If the sexual intercourse was by a man with his own wife	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session
	In any other case	May arrest without warrant	Warrant	Not bailable	Ditto	Ditto	Ditto

Of Unnatural Offences

377	Unnatural offences	May arrest without warrant.	Warrant	Not bailable	Not compoundable	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

CHAPTER XVII —OFFENCES AGAINST PROPERTY

Of Theft

379	Theft	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years or fine or both	Any Magistrate
380	Theft in a building tent or vessel.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Ditto
381	Theft by clerk or servant of property in possession of master or employer	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session Presidency Magistrate or Magistrate of the first or second class
382	Theft preparation having been made for causing death or hurt or restraint or fear of death or of hurt or of restraint in order to the committing of such theft or to retiring after committing it or to retaining property taken by it	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine	Court of Session Presidency Magistrate or Magistrate of the first class

SCHEDULE II—*continued*

CHAPTER XVII —OFFENCES AGAINST PROPERTY—*continued*

Of Extortion

1	2	3	4	5	6	7	8
Section of 1860	Offence	Whether the police may arrest without warrant or not	Whether a warrant or *a summons* shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
384	Extortion	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years or fine or both	Court of Session Presidency Magistrate or Magistrate of the first or second class
385	Putting or attempting to put in fear of injury in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine or both	Ditto
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years and fine	Court of Session
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Ditto

388	Extortion by threat of *accusation of an* offence punishable with death transportation for life or imprisonment for 10 years	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 10 years, and fine	Ditto.
	If the offence threatened be an unnatural offence	Ditto	Ditto	Ditto	Ditto	Transportation for life	Ditto
389	Putting a person in fear of accusation of offence punishable with death transportation for life or with imprisonment for 10 years in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Ditto
	If the offence be an unnatural offence	Ditto	Ditto	Ditto	Ditto	Transportation for life	Ditto

Of Robbery and Dacoity

392	Robbery	May arrest without warrant	Warrant	Not bailable	Not compoundable	Rigorous imprisonment for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	If committed on the highway between sunset and sunrise	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years, and fine	Ditto
393	Attempt to commit robbery.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine	Ditto

SCHEDULE II—*continued*

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

Of Robbery and Dacoity—continued

1	2	3	4	5	6	7	8
1860 Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [2]	By what Court triable
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery	May arrest without warrant	Warrant	Not bailable.	Not compoundable	Transportation for life or rigorous imprisonment for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
395	Dacoity . . .	Ditto	Ditto .	Ditto .	Ditto .	Ditto	Court of Session
396	Murder in dacoity .	Ditto	Ditto	Ditto .	Ditto .	Death, transportation for life or rigorous imprisonment for 10 years, and fine	Ditto
397	Robbery or dacoity, with attempt to cause death or grievous hurt	Ditto	Ditto .	Ditto	Ditto .	Rigorous imprisonment for not less than 7 years	Ditto

398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine	Ditto
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity	Ditto	Ditto	Ditto	Ditto	Transportation for life or rigorous imprisonment for 10 years and fine	Ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine	Court of Session Presidency Magistrate or Magistrate of the first class
402	Being one of five or more persons assembled for the purpose of committing dacoity	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session
	Of Criminal Misappropriation of Property						
403	Dishonest misappropriation of moveable property or converting it to one's own use	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years or fine or both	Any Magistrate

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Misappropriation of Property—continued.

1	2	3	4	5	6	7	8
Section. of 1860	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
405	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
	Of Criminal Breach of Trust.						
406	Criminal breach of trust.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class

407	Criminal breach of trust by a carrier, wharfinger, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
	Of the Receiving of Stolen Property						
411	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine	Court of Session
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol I

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Cheating

1560

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
417	Cheating . . .	Shall not arrest without warrant	Warrant .	Bailable .	Not compoundable	Imprisonment of either description for 1 year, or fine, or both .	Presidency Magistrate or Magistrate of the first or second class
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto .	Ditto .	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto
420	Cheating and thereby dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

Of Fraudulent Deeds and Disposition of Property.

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Mischief

426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Robbery and Dacoity—continued.

1	2	3	4	5	6	7	8
1860. Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code [1]	By what Court triable.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life or rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
395	Dacoity . . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
396	Murder in dacoity .	Ditto . .	Ditto . .	Ditto .	Ditto .	Death, transportation for life or rigorous imprisonment for 10 years, and fine.	Ditto
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for not less than 7 years.	Ditto.

398	Attempt to commit robbery or dacoity when armed with deadly weapon	Ditto .	Ditto	Ditto	Ditto .	Ditto . .	Ditto
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto .	Ditto	Rigorous imprisonment for 10 years, and fine	Ditto
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity	Ditto	Ditto	Ditto	Ditto	Transportation for life or rigorous imprisonment for 10 years and fine	Ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity	Ditto	Ditto	Ditto	Ditto .	Ditto . . .	Court of Session
	Of Criminal Misappropriation of Property						
403	Dishonest misappropriation of moveable property, or converting it to one's own use	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine or both	Any Magistrate

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Robbery and Dacoity—continued.

1	2	3	4	5	6	7	8
1860. Section.	*Offence.*	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the *Indian Penal Code.*[1]	By what Court triable.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable	Transportation for life or rigorous imprisonment for 10 years, and fine.	*Court of Session, Presidency Magistrate* or Magistrate of the first class.
395	Dacoity . . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
396	Murder in dacoity .	Ditto . .	Ditto . .	Ditto .	Ditto .	Death, transportation for life or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for not less than 7 years.	Ditto.

398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.

SCHEDULE II—continued.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.

Of Criminal Misappropriation of Property—continued.

1	2	3	4	5	6	7	8
1 1860. Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code 1	By what Court triable
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
405	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Ditto

Of Criminal Breach of Trust.

1	2	3	4	5	6	7	8
406	Criminal breach of trust.	May arrest without warrant	Warrant	Not bailable.	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

407	Criminal breach of trust by a carrier, wharfinger, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class
409	Criminal breach of trust by public servant or by banker merchant or agent, etc.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
	Of the Receiving of Stolen Property						
411	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine	Court of Session
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol I

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued*

Of Cheating

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.[1]	By what Court triable
417	Cheating . .	Shall not arrest without warrant	Warrant	Bailable .	Not compoundable	Imprisonment of either description for 1 year, or fine, or both .	Presidency Magistrate or Magistrate of the first or second class
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Ditto .	Imprisonment of either description for 3 years, or fine, or both .	Court of Session, Presidency Magistrate or Magistrate of the first or second class
419	Cheating by personation.	May arrest without warrant	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto
420	Cheating and thereby dishonestly inducing delivery of property or the making alteration or destruction of a valuable security	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

[1] 1860

Of Fraudulent Deeds and Disposition of Property

421	Fraudulent removal or concealment of property, etc, to prevent distribution among creditors.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Mischief

426	Mischief	Shall not arrest without warrant	Summons	Bailable	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate

[1] General Acts, Vol I

SCHEDULE II—*continued*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—continued

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards	Shall not arrest without warrant	Warrant	Bailable	Compoundable when the only loss or damage caused is loss or damage to a private person	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards	May arrest without warrant.	Ditto	Ditto	Not compoundable	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse,	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class

	etc, whatever may be its value, or any other animal of the value of 50 rupees or upwards.						
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, etc, a land mark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class [1]

[1] General Acts, Vol I.

SCHEDULE II—*continued*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued*

Of Mischief—concluded

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
436	Mischief by fire or explosive substance with intent to destroy a house, etc	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Court of Session
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Ditto

438	The mischief described in the last section when committed by fire or any explosive substance	Ditto	Ditto .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine	Ditto
439	Running vessel ashore with intent to commit theft, etc	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine	Ditto
440	Mischief committed after preparation made for causing death, or hurt, etc	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class

Of Criminal Trespass.

447	Criminal trespass .	May arrest without warrant.	Summons .	Bailable	Compoundable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate
448	House trespass . .	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Ditto
449	House trespass in order to the commission of an offence punishable with death	Ditto .	Ditto . .	Not bailable	Not compoundable	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House trespass in order to the commission of an offence punishable with transportation for life.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine	Ditto.

[1] General Acts, Vol I.

SCHEDULE II—*continued*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued*

Of Criminal Trespass—continued

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
451	House trespass in order to the commission of an offence punishable with imprisonment.	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years and fine	Any Magistrate
	If the offence is theft	Ditto .	Ditto	Not bailable	Ditto .	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
452	House trespass having made preparation for causing hurt, assault, etc	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto
453	Lurking house-trespass or house-breaking	Ditto .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 2 years, and fine	Presidency Magistrate or Magistrate of the first or second class
454	Lurking house trespass or house breaking in	Ditto	Ditto .	Ditto	Ditto .	Imprisonment of either description	Court of Session, Presidency Magistrate

	order to the commission of an offence punishable with imprisonment					for 3 years, and fine	or Magistrate of the first or second class
	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine	Ditto
455	Lurking house trespass or house breaking after preparation made for causing hurt, assault, etc	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class
456	Lurking house trespass or house breaking by night	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
457	Lurking house trespass or house breaking by night in order to the commission of an offence punishable with imprisonment	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine	Ditto
	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto
458	Lurking house trespass or house breaking by night after preparation made for causing hurt, etc	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Sessions, Presidency Magistrate or Magistrate of the first class

SCHEDULE II—*continued*

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*concluded*

Of Criminal Trespass—concluded

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether c mpound able or not	Whether compound able or not	*Punishment under the Indian Penal Code* [1]	By what Court triable
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	May arrest without war rant.	Warrant	Not bail able	Not com poundable	Transportation for life, or imprison ment of either description *for* 10 years and fine	Court of Session
460	Death or grievous hurt caused by one of several persons jointly concerned in house breaking by night, etc	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
461	Dishonestly breaking open or unfastening any closed receptacle containing or sup- posed to contain pro- perty	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years or fine or both	Presidency Magis trate or Magistrate of the first or second class
462	Being entrusted with any closed receptacle contain ng or sup- posed to contain any	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class

	property, and fraudulently opening the same						
	CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS						
465	Forgery	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first class
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant	*Ditto*	*Ditto*	*Not bailable*	*Ditto*	Imprisonment of either description for 7 years, and fine	Court of Session
467	Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Ditto
	When the valuable security is a promissory note of the Government of India	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Ditto
468	Forgery for the purpose of cheating	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
469	Forgery for the purpose of harming the reputation of any person or knowing that it is likely to be used for that purpose	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, and fine	Ditto

[1] General Acts Vol. I

SCHEDULE II—*continued*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued*

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
471	Using as genuine a forged document which is known to be forged	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	*Punishment for forgery of such document*	*Same Court as that by which the forgery is triable*
	When the forged document is a promissory note of the Government of India.	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 7 years, and fine	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code,[1] or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine	Ditto
474	Having possession of a document knowing it to be forged, with intent to use it as genuine, if the document is one of the description mentioned in section 466 of the Indian Penal Code[1]	Ditto .	Ditto .	Ditto	Ditto .	Ditto .	Ditto
	If the document is one of the description mentioned in section 467 of the Indian Penal Code[1]	Ditto .	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years, and fine	Ditto
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code,[1] or possessing counterfeit marked material	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued*

1	2	3	4	5	6	7	8
1860. Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
476	Counterfeiting a device of mark used for authenticating documents other than those described in section 467 of the Indian Penal Code,[1] or possessing counterfeit marked material.	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine	Court of Session
477	Fraudulently destroying or defacing or attempting to destroy or deface or secreting, a will etc	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 7 years, and fine	Ditto
477A	Falsification of accounts.	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto

Of Trade and Property Marks

1	2	3	4	5	6	7	8
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant	Warrant .	Bailable .	Not compoundable	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
484	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Ditto
486	Knowingly selling goods marked with a counterfeit property or trade mark	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, etc	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

¹ General Acts, Vol. I.

SCHEDULE II—*continued*

CHAPTER XVIII —OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concluded*

Of Trade and Property Marks—concluded

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
489	Removing destroying or defacing any property mark with intent to cause injury	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
	[2]Of Currency Notes and Bank-Notes						
489A	Counterfeiting currency notes or bank notes	May arrest without warrant	Warrant	Not bailable	Not compoundable	Transportation for life or imprisonment of either description for 10 years and fine	Court of Session
489B	Using as genuine forged or counterfeit currency notes or bank notes.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine	Ditto

(Schedule II —Tabular Statement of Offences Chapter XVIII —Offences relating to Documents and to Trade or Property Marks Chapter XIX —Criminal Breach of Contracts of Service)

489C	Possession of forged or counterfeit currency notes or bank notes	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years or fine or both	Ditto
489D	Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either *description for* 10 years, and fine	Ditto

Chapter XIX —Criminal Breach of Contracts of Service

490	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for 1 month or fine of 100 rupees or both	Presidency Magistrate or Magistrate of the first or second class
491	Being bound to attend on or supply the wants of a person who is helpless from youth unsoundness of mind or disease and voluntarily omitting to do so	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months or fine of 200 rupees or both	Ditto

[1] General Acts Vol I
† This portion was added to the Schedule by s 3 of the Currency Notes Forgery Act 1899 (XII of 1899) Genl. Acts Vol. V.

SCHEDULE II—*continued*

Chapter XIX.—Criminal Breach of Contracts of Service—*concluded*

1	2	3	4	5	6	7	8
Section	Offence	Whether the Police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer and voluntarily deserting the service or refusing to perform the duty	Shall not arrest without warrant.	Summons	Bailable	Compoundable	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both	Presidency Magistrate or Magistrate of the first or second class.

Chapter XX.—Offences relating to Marriage

1	2	3	4	5	6	7	8
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for 10 years, and fine	Court of Session

494	Marrying again during the life time of a husband or wife	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years, and fine	Ditto
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years and fine	Ditto
496	A person with fraudulent intention going through the ceremony of being married knowing that he is not thereby lawfully married	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
497	Adultery	Ditto	Ditto	Bailable	Compoundable	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class
498	Enticing or taking away or detaining with a criminal intent a married woman	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class

CHAPTER XXI —DEFAMATION

500	*Defamation*	Shall *not* arrest without warrant	*Warrant*	*Bailable*	*Compoundable*	*Simple* imprisonment for 2 years or fine or both	Court of Session Presidency Magistrate or Magistrate of the first class

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XXI.—DEFAMATION—*concluded*

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
501	Printing or engraving matter knowing it to be defamatory	Shall not arrest without warrant.	Warrant	Bailable .	Compoundable	Simple imprisonment for 2 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Ditto . .	Ditto .	Ditto .	Ditto .	Ditto . .	Ditto

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

1	2	3	4	5	6	7	8
504	Insult intended to provoke a breach of the peace	Shall not arrest without warrant.	Warrant	Bailable .	Compoundable.	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace	Ditto .	Ditto .	Not bailable	Not compoundable	Ditto . .	Presidency Magistrate or Magistrate of the first class.

506	Criminal intimidation	Ditto	Ditto	Bailable	Compound*able*	Ditto	[2][Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc	*Ditto*	*Ditto*	*Ditto*	*Not compoundable*	Imprisonment of either description for 7 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Court of Session, Presidency Magistrate or Magistrate of the first class
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, etc, in a state of intoxication, and causing annoyance to any person	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both	Any Magistrate.

[1] General Acts Vol I
[2] These words were substituted for the word "Ditto" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (1 of 1903), General Acts Vol. V

SCHEDULE II—*continued.*

CHAPTER XXI—DEFAMATION—*concluded*

1	2	3	4	5	6	7	8
[...] 1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code [1]	By what Court triable
501	Printing or engraving matter knowing it to be defamatory	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Simple imprisonment for 2 years, or fine, or both	Court of Session Presidency Magistrate or Magistrate of the first class.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

1	2	3	4	5	6	7	8
504	Insult intended to provoke a breach of the peace	Shall not arrest without warrant.	Warrant	Bailable	Compoundable.	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate
505	False statement rumour etc, circulated with intent to cause mutiny or offence against the public peace	Ditto	Ditto	Not bailable	Not compoundable	Ditto	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XXII.—Criminal Intimidation, Insult and Annoyance.)

506	Criminal intimidation	Ditto . . .	Ditto . .	Bailable .	Compoundable.	Ditto . . .	[2][Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc.	Ditto .	Ditto . .	Ditto .	Not compoundable	Imprisonment of either description for 7 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, in addition to the punishment under above section	Court of Session, Presidency Magistrate or Magistrate of the first class.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description, for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc	Ditto	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class
510	Appearing in a public place etc., in a state of intoxication, and causing annoyance to any person	Ditto .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

[1] General Acts, Vol. I.
[2] These words were substituted for the word "Ditto" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (1 of 1903), General Acts, Vol. V.

SCHEDULE II—*concluded*

XXIII.—ATTEMPTS TO COMMIT OFFENCES

1	2	3	4	5	6	7	8
1860 Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code[1]	By what Court triable
511	Attempting to commit offences punishable with transportation or imprisonment and in such attempt doing any act towards the commission of the offence	According as the offence is one in respect of which the police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	According as the offence contemplated by the offender is bailable or not	Compoundable when the offence attempted is compoundable	Transportation or imprisonment not exceeding half of the longest term and of any description provided for the offence, or fine, or both	The Court by which the offence attempted is triable
	OFFENCES AGAINST OTHER LAWS						
	If punishable with death, transportation or imprisonment for 7 years or upwards	May arrest without warrant	Warrant	Not bail able	Not compoundable		Court of Session
	If punishable with imprisonment for 3 years and upwards but less than 7	Ditto	Ditto	Ditto Except in cases under the Indian Arms Act, 1878[2] section 19 which shall be bailable	Ditto		Court of Session Presidency Magistrate or Magistrate of the first class

If punishable with imprisonment for 1 year and upwards but less than 3 years	Shall not arrest without warrant	Summons	Bailable	Ditto		Court of Session, Presidency Magistrate or Magistrate of the first or second class
If punishable with imprisonment for less than 1 year, or with fine only	Ditto	Ditto	Ditto	Ditto		Any Magistrate

[1] General Acts Vol I.
[2] General Acts Vol II.

SCHEDULE III.

(*See section 36.*)

Ordinary Powers of Provincial Magistrates

I.—Ordinary Powers of a Magistrate of the Third Class

(1) Power to arrest or direct the arrest of, and to commit to custody, a person com [illegible]

(2) P [illegible]

(3) I [illegible] on

(4) [illegible]

(5) [illegible]

(6) [illegible]

(7) [illegible]

(8) [illegible]

(9) [illegible] d, section 99

(10) [illegible]

(11) [illegible]

(12) [illegible] ssembly, sec [illegible]

(13) Power to record statements or confessions during a police investigation, section 164

(14) Power to authorise detention of a person during a police investigation, section 167

(15) Power to detain an offender found in court, section 351

(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445

(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2)

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514

(19) Power to make order as to disposal of property, section 517

(20) Power to sell perishable property of a suspected character, section 525

II.—Ordinary Powers of a Magistrate of the Second Class

[illegible]

(3) Power to postpone issue of process, section 20[illegible]

(4) Power to order destruction of libellous and other matter, section 521

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class

(2) Power to issue search warrant otherwise than in course of an inquiry, section 98

(3) Power to issue search warrant for discovery of persons wrongfully confined, section 100

(4) Power to require security to keep the peace, section 107

(5) [illegible]

[illegible] 5, 146 and 147

SCHEDULE III—*continued.*

(11) Power to take evidence on commission, section 503

(12) Power to recover penalty on forfeited bond, section 514

(13) Power to make order as to first offenders, section 562.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

(1) The ordinary powers of Magistrate of the first class

(2) Power to direct warrants to landholders, section 78

(3) [illegible]

(4) [illegible]

(5) [illegible]

(6) [illegible]

(7) [illegible]

(8) [illegible]

(9) [illegible]

(10) [illegible]

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186

(12) [illegible]

(13) [illegible]

(14) [illegible]

(15) [illegible]

(16) [illegible] Magistrate, section 349

(17) Power to forward record of inferior Court to District Magistrate, section 435 (2)

(18) Power to sell property alleged or suspected to have been stolen, etc., section 524

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528

(20) Power to order released convicts to notify residence, section 565

V.—Ordinary Powers of a District Magistrate.[1]

(1) The ordinary powers of a Sub-divisional Magistrate

(2) Power to require delivery of letters, telegrams, etc., section 95

(3) Power to issue search warrants for documents in custody of postal or telegraph authority, section 96

(4) Power to require security for good behaviour in case of sedition, section 108

(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124

(6) Power to cancel bond for keeping the peace, section 125

(7) Power to try summarily, section 260

(8) Power to quash convictions in certain cases, section 350

(9) Power to hear appeals from orders requiring security for good behaviour, section 406

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407

(11) Power to call for records, section 435

(12) Power to order commitment, section 436

(13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437

(14) Power [illegible]

(15) Power [illegible]

(16) Power [illegible] impri-sonme[illegible]

[1] Under the Punjab Frontier Crimes Regulation, 1901 (III of 1901), additional District Magistrates appointed under s. 4 of the Regulation have the powers specified in Part V of the Third Schedule—see s. 4 (2) of the Regulation, P. and N.-W. P. Code.

SCHEDULE III—*concluded.*

(17) Power to appoint person to be public prosecutor in particular case, section 492 (2).
(18) Power to issue commission for examination of witness, sections 503, 506.
(19) Power to hear appeals from or revise orders passed under sections 514, 515.
(20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV

(See sections 37 and 38.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED

BY THE LOCAL GOVERNMENT.

(1) Power to require security for good behaviour in case of sedition, section 108.
(2) Power to require security for good behaviour, section 110.
(3) Power to make orders as to local nuisances, section 133.
(4) Power to make orders prohibiting repetitions of nuisances, section 143.
(5) Power to make orders under section 144.
(6) Power to hold inquests, section 174.
(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
(8) Power to take cognizance of offences upon complaint, section 190.
(9) Power to take cognizance of offences upon police reports, section 190.
(10) Power to take cognizance of offences without complaint, section 190.
(11) Power to try summarily, section 260.
(12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407.
(13) Power to sell property alleged or suspected to have been stolen, etc., section 524.
(14) Power to order released convicts to notify residence, section 565.
(15) Power to try cases under section 124A of the Indian Penal Code.

BY THE DISTRICT MAGISTRATE.

(1) Power to make orders prohibiting repetitions of nuisances, section 143.
(2) [illegible] 144.
(3) [illegible]
(4) [illegible] upon
(5) Power to take cognizance of offences upon police reports, section 190.
(6) Power to transfer cases, section 192.

SCHEDULE IV—*continued*

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED

By the Local Government

¹* * * * *

(2) Powers to make orders prohibiting repetitions of nuisances section 143
(3) Power to make orders under section 144
(4) Power to hold inquests section 174
(5) Power to take cognizance of offences upon complaint section 190
(6) Power to take cognizance of offences upon police reports section 190
(7) Power to take cognizance of offences without complaint section 190
(8) Power to commit for trial section 206
(9) Power to make orders as to first offenders, section 562

By the District Magistrate

(1) Power to make orders prohibiting repetitions of nuisances section 143
(2) [illegible]
(3) [illegible]
(4) [illegible] on co | a r t section 190
(5) Power to take cognizance of offences upon police reports section 190

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED

By the Local Government

(1) Power to make orders prohibiting repetitions of nuisances section 143
(2) [illegible] 144
(3) [illegible]
(4) [illegible] upon
(5) Power to take cognizance of offences upon police reports section 190
(6) Power to commit for trial section 206

By the District Magistrate.

(1) Power to make orders prohibiting repetitions of nuisances section 143
(2) [illegible] 44
(3) [illegible]
(4) [illegible] upon co | la nt sec ion 190
(5) Power to take cognizance of offences upon police reports section 190

POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED

By the Local Government

Power to call for records section 435

¹ The words and figures "(1) Power to pass sentences of whipping section 3" were repealed by the Whipping Act 1909 (IV of 1909) General Acts Vol VI Appendix

SCHEDULE V.

(See section 555.[1])

FORMS

I.—Summons to an Accused Person

(See section 68.)

To of

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader, as the case may be*) before the (*Magistrate*) of , on the day of . Herein fail not.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

II.—Warrant of Arrest

(See section 75.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

Whereas of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

(See section 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (or two sureties each in the sum of) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of 18 .

(*Signature.*)

III.—Bond and Bail-bond after Arrest under a Warrant

(See section 86.)

I (name), of [illegible]

to continue so to attend until otherwise directed by the Court, and, in case of my making default herein, I bind myself to forfeit, to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18 .

(*Signature.*)

I do hereb[illegible]
that he shall
of
so to attend

---

[1] These figures were substituted for the figures "554" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), Genl. Acts, Vol. V.

therein, I bind myself to forfeit to Her Majesty the Queen, Empress of India the sum of rupees

Dated this day of 18

(Signature)

IV —Proclamation requiring the appearance of a person accused

(See section 87)

Whereas complaint has been made before me that (*name description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant)

Proclamation is hereby made that the said and of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint [on the day of][1]

Dated this day of 18

(Seal) *(Signature)*

V —Proclamation requiring the attendance of a witness

(See section 87)

Whereas complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name description*

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o clock to be examined touching the offence complained of

Dated this day of 18

(Seal) *(Signature)*

VI —Order of attachment to compel the attendance of a witness

(See section 88)

To the Police officer in charge of the Police station at

therein, and he has failed to appear

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of 18

(Seal) *(Signature)*

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[1] These words were substituted for the words "within days from this date" by Part II of the Second Schedule to the Repealing and Amending Act 1903 (I of 1903) Genl. Acts Vol. V

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(*See section 88*)

To (*name and designation of the person or persons who is or are to execute the warrant*)

land paying revenue to Governm
of

You are hereby required to attach the said property by seizure and to hold the same under attachment pending the further order of this Court and to return this warrant with an endorsement certifying the manner of its execution

Dated this day of 18

(*Seal*) (*Signature*)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR

(*See section 88*)

To the Deputy Commissioner of the District of

service of the said warrant) and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days but he has not appeared and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the District of

You are hereby authorized and requested to cause the said land to be attached and to be held under attachment pending the further order of this Court and to certify without delay what you may have done in pursuance of this order

Dated this day of 18

(*Seal*) (*Signature*)

VII —WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(*See section 90*)

To (*name and designation of the Police officer or other person or persons who is or are to execute the warrant*)

WHEREAS complaint has been made before me that of has (*or* is

This is to authorize and require you to arrest the said (*name*) and on the day of to bring him before this Court to be examined touching the offence complained of

Given under my hand and the seal of the Court this day of 18

Seal) (*Signature*)

VIII —WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(See section 96)

To (*name and designation of the Police officer or other person or persons who is or are to execute the warrant*)

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made *or* about to be made into the said offence *or* suspected offence,

This is to authorize and require yo[illegible]
(*describe the house or place or part the*
found to produce the same forthwith b[illegible]
endorsement certifying what you have d[illegible]

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

IX —WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 98)

To (*name and designation of a Police officer above the rank of a Constable*)

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section state the purpose in the words of the section*),

This is to authorize and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined* [illegible]

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

X —BOND TO KEEP THE PEACE.

(See section 107)

[illegible] n to enter into a bond [illegible] act that may probably [illegible] of my making default [illegible], Empress of India, the sum of rupees

Dated this day of 18

(*Signature*)

XI —BOND FOR GOOD BEHAVIOUR

(See sections 108, 109 and 110)

WHEREAS I (*name*) inhabitant of (*place*) have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her

subjects for the term of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term, and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees

Dated this day of 18

(*Signature*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen Empress of India and to all Her subjects during the said term, and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees

Dated this day of 18

(*Signature*)

XII —SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(*See section 114*)

To of

WHEREAS it has been made to appea to me by cred bl
substance of the
by
atte

the term of

Given under my hand and the seal of the Court this day of 18

(*Seal*) (*Signature*)

XIII —WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(*See section 123*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name and address*) appeared before me in person (*or* by his authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two
that he

said order,

This is to authorize and require you, the said S
the said (*name*) into your custody, together
the said Jail for the said period of (*term of*
[1][be lawfully ordered to be released] and t
certifying the manner of its execution

Given under my hand and the seal of the Court this day of 18

(*Seal*) (*Signature*)

[1] Th

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, that he is unable to give any satisfactory account of himself)

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded from which it appears that he is an habitual robber (*or* house breaker, etc., *as the case may be*)

adjudged imprisonment for (*state the term*) unless the said security be sooner furnished

This is to authorize and require you the said Superintendent (*or* Keeper) to receive

Given under my hand and the seal of the Court this day of 18

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See sections 123 and 124.)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*)

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure

or

and there has appeared to me sufficient grounds for the opinion that he can be released without hazard to the community,

This is to authorize and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause

Given under my hand and the seal of the Court this day of 18

(*Seal.*) (*Signature.*)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(See section 133.)

To (*name, description and address*)

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc. (*describe*

[1] These words were substituted for the words "comply with the said order by himself and his surety (or sureties) entering into the said bond in which case the same shall be received and the said (*name*) released" by the Repealing and Amending Act 1903 (I of 1903)—*see* s. 3 and Part II of Second Schedule Genl. Acts Vol. V

the road or public place), by, etc, (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists,

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place,

or

WHEREAS it has been made to appear to me that you are owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced),

or

WHEREAS, etc, etc, (*as the case may be*),

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced,

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.,

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.,

or

I do hereby direct and require you, etc, (*as the case may be*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY

(*See section 138*)

WHEREAS on the day of 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me by a petition bearing date the day of , for an order appointing a

ble and proper, I do hereby appoint

he Jury to try and decide the said

decision within days from

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XVIII —Magistrate's Notice and Peremptory Order after the Finding by a Jury

(*See section 140*)

To (*name, description and address*)

yci

o

ible

to

the

of 1860

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XIX —Injunction to provide against Imminent Danger pending Inquiry by Jury

(*See section 142*)

To (*name, description and address*)

ued on the

as been made tc

rith so imminent

to prevent such

Criminal Proce

to be done as a

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XX —Magistrate's Order prohibiting the Repetition, etc, of a Nuisance

(*See section 143*)

To (*name, description and address*)

Whereas it has been made to appear to me that, etc. (*state the proper recital, guided by* Form No XVI or Form No XXI, *as the case may be*).

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc, (*as the case may be*)

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XXI —Magistrate's Order to prevent Obstruction, Riot, etc.

(*See section 144*)

To (*name, description and address*)

Whereas it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*) and that in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road so as to occasion risk of obstruction to persons using the road,

or

Whereas it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along

the public street, etc., (*as the case may be*), and that such procession is likely to lead to a riot or an affray,

or

Whereas, etc, etc., (*as the case may be*):

I do hereby order you not to place or permit to be placed any of the earth or stores dug from land on any part of the said road,

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XXII.—Magistrate's Order declaring Party entitled to retain Possession of Land, etc, in Dispute

(*See section 145*)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or resi* [illegible] ...ning certain (*state concisely* [illegible] y jurisdiction, all the said [illegible] respective claims as to the [illegible] and being satisfied by due [illegible] claim of either of the said [illegible] tual possession by the said (*name or names or description*) is true,

I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XXIII.—Warrant of Attachment in the Case of a Dispute as to the Possession of Land, etc

(*See section 146*)

To the Police officer in charge of the Police station at [*or*, To the Collector of]

Whereas it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence or* [illegible]

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(See section 147.)

Given under my hand and the seal of the Court, this day of 18

(Seal) (Signature)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I (name), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

when required, , on nay hereafter be making default ıdia, the sum of rupees

Dated this day of 18

(Signature.)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18

(Signature.)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(See section 170.)

I (name), of (place), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (or to prosecute and give evidence) (or to give evidence in the matter of a charge of against one A. B., and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(Signature.)

the public street, etc, (*as the case may be*), and that such procession is likely to lead to a riot or an affray,

or

Whereas, etc., etc., (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stores dug from land on any part of the said road,

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XXII.—Magistrate's Order declaring Party entitled to retain Possession of Land, etc, in Dispute

(*See section 145*)

[illegible]

parties were called upon [illegible]

fact of actual possession [illegible]

inquiry had thereupon, [illegible]

parties to the legal right [illegible]

(*name or names or description*) is true,

I do decide and declare that he is (*or they are*) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XXIII.—Warrant of Attachment in the Case of a Dispute as to the Possession of Land, etc

(*See section 146*)

To the Police officer in charge of the Police station at [*or*, To the Collector of]

the [illegible]

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XXIV —MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147*)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or*

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XXV —BOND AND BAIL BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER

(*See section 169*)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

r when required, , on nay hereafter be making default , ndia, the sum of rupees

Dated this day of 18

(*Signature*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court be of feit

Dated this day of 18

(*Signature*)

XXVI —BOND TO PROSECUTE OR GIVE EVIDENCE

(*See section 170*)

I (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence in the matter of a charge of against one *A B*, and, in case of making default herein I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18

(*Signature*)

XXVII.—Notice of Commitment by Magistrate to Government Pleader

(See section 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions, and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case

The charge against the accused is that, etc (*state the offence as in the charge*)

Dated this day of 18

(*Signature.*)

XXVIII.—Charges

(See sections 221, 222, 223.)

(1) Charges with one Head

(*a*) I [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows —

(*b*) that you, on or about the day of , at

On Penal Code section 121

, waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]

(*c*) And I hereby direct that you be tried by the said Court on the said charge

[*Signature and seal of the Magistrate.*]

[*To be substituted for (b)*] —

(2) That you, on or about the day of , at [illegible]

(3) That you, being a public servant in the Department, directly

On section 101

accepted from [*state the name*] for another party [*state the name*] a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

(4) That you, on or about the day of , at

On section 166

, did [*or* omitted to do, *as the case may be*]

such conduct being contrary to the provisions of Act , section and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

(5) That you, on or about the day of , at

On section 193

in the course of the trial of ,

[illegible] " which statement you either knew [illegible] true and thereby committed an offence [illegible] Code, and within the cognizance of the [illegible]

(6) That you, on or about the day of , at

On section 304

, committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

(7) That you, on or about the day of , at

On section 303

abetted the commission of suicide by *A B*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 325

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 392

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 395

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session," and in (*c*) omit " by the said Court "]

(II) Charge with two or more Heads

(*a*) I [*name and office of Magistrate, etc*] hereby charge you [*name of accused person*] as follows —

(*b*) *First* —That you, on or about the day of , at knowing a coin to be counterfeit, delivered the same to another person by name *A B* , as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 241

Secondly —That you, on or about the day of , at knowing a coin to be counterfeit, attempted to induce another person, by name *A B* to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

(*c*) And I hereby direct that you be tried by the said Court on the said charge

[*Signature and seal of the Magistrate*]

[*To be substituted for* (*b*)] —

(2) *First* —That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On sections 302 and 304

Secondly —That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code and within the cognizance of the Court of Session [*or* High Court]

(3) *First* —That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On sections 379 and 382

Secondly —That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly —That you, on or about the day of , at , [illegible] straint to a person in order to the [illegible] theft, and thereby committed an [illegible] Code and within the cognizance [illegible]

Fourthly —That you, on or about the day of , at , [illegible] of hurt to a person in order to [illegible] committed an offence punish [illegible] in the cognizance of the Court [illegible]

Alternative charges on section 193

(4) That you, on or about the day of , in the course of the inquiry into , before , stated in evidence that " " and that you, on or about the day of , at , in the course of the trial of , before , stated in the evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session " *and in* (c) *omit* " by the said Court "]

(III) Charge for Theft after previous Conviction

I (*name and office of Magistrate, etc*), hereby charge you (*name of accused person*) as follows —

That you, on or about the day of , at committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* $\left\{\frac{\text{High Court}}{\text{Magistrate}}\right\}$ *as the case may be*]

And you, the said (*name of accused*), stand further charged that you, before the com ... , had been ... of an offence ... nment for a term ... scribe the offence ... which conviction ... nced punishment under section 75 of the Indian Penal Code

And I hereby direct that you be tried, etc

XXIX —Warrant of Commitment on a Sentence of Imprisonment or Fine if passed by a Magistrate.

(*See sections 245 and 258*)

To the Superintendent (*or* Keeper) of the Jail at

Whereas on the day of 18 , (*name of prisoner*), the (1st, ... ndar for 18 ... *on the offence* ... of Act

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*

XXX —Warrant of Imprisonment on Failure to recover amends by Distress

(*See section 250*)

To the Superintendent (*or* Keeper) of the Jail at

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name

of complainant) of the sum of rupees as amends and whereas the aid sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid,

This is to authorize and requir ... to receive the said (*name*) into your custody ... to keep in the said Jail for the said period of ... rovisions of section 69 of the Indian Penal Cc ... and on the receipt thereof forthwith to set hi ... an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court this day of 18

(*Seal*) (*Signature*)

XXXI —Summons to Witness

(*See section 68 and 252*)

To of

Whereas complaint has been made before me that has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence for the prosecution

... u know con ... leave of the ... ect or refuse

Given under my hand and the seal of the Court this day of 18

(*Seal*) *Signature*)

XXXII —Precept to District Magistrate to summon Jurors and Assessors

(*See section 326*)

To the District Magistrate of

Whereas a Crim n l Sess on ... appointed ... be held ...

(*Here enter the names of J rors and Assessors*)

Given under my hand and the seal of the Court this day of 1.

(*Seal*) (*Signature*)

XXXIII —Summons to Assessor or Juror

(*See sect on 3*3*)

To (*name*) of (*place*)

Pursuant to a precept directed to me by the Court of Sessions of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session you are hereby summoned to attend at the said Court of Ses ion at (*place*) at ten o clock in the forenoon on the day of next

Given under my hand and the seal of office this day of 18

(*Seal*) (*Signature*)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 488.)

To the Superintendent (*or* Keeper) of the Jail at

failed to pay rupees , being the amount of the allowance for the month (*or* months) of . And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said Jail for the period of ,

Superintendent (*or* Keeper), to receive together with this warrant, and there law, returning this warrant, with an

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 488.)

To (*name and designation of the Police officer or other person to execute the warrant*).

ring (*name*) to allow to his said wife (*or* , and whereas the said (*name*) pay rupees , being the amount

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*)

India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of

inst him, and, should nd appear, before the iking default therein e Queen, Empress of

Dated this day of 18

(*Signature*)

XLIII —Warrant to discharge a Person imprisoned on Failure to give security

(*See section 500*)

To the Superintendent (*or* Keeper) of the Jail at

(*or other officer in whose custody the person is*)

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or sureties*) duly executed a bond under section 499 of the Code of Criminal Procedure,

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XLIV —Warrant of Attachment to enforce a Bond

(*See section 514*)

To the Police officer in charge of the Police station at

ar on (*mention* feited to Her *he bond*), and he said sum or

This is to authorize and require you to attach any moveable property of the said ure and detention erty so attached or to make return of

Given under my hand and the seal of the Court this day of 18

(*Seal*) (*Signature*)

XLV —Notice to Surety on Breach of a Bond

(*See section 514*)

To of

Whereas on the day of 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen Empress of India and whereas the said (*name*) has failed to appear before this Court and by reason of such default you have forfeited the

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To of

WHEREAS on the day of 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India, and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited,

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section 514.*)

To of

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*),

This is to authorize and require you to attach any moveable property of th said (*name*) wh ch you may find within the district of , by seizure and detention, sell the property so attached, or eturn of what

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India, and whereas the said (*name of surety*) has, on due notice to cause why payment should not be by attachment and sale of move- us imprisonment in the Civil Jail

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*) and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18

(*Seal*) (*Signature*)

XLIX —Notice to the Principal of Forfeiture of a Bond to keep the Peace

(*See section 514*)

To (*name, description and address*)

Whereas on the day of 18 , you entered into a bond not to commit, etc., (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded,

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you

Dated this day of 18 .

(*Seal*) (*Signature*)

L —Warrant to attach the Property of the Principal on Breach of a Bond to keep the Peace

(*See section 514*)

To (*name and designation of Police officer*), at the Police-station of

[illegible]

the said sum,

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution

Given under my hand and the seal of the Court this day of 18

(*Seal*) (*Signature*)

LI —Warrant of Imprisonment on Breach of a Bond to keep the Peace.

(*See section 514*)

To the Superintendent (*or* Keeper) of the Civil Jail at

Whereas proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby [illegible]

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said Civil Jail, to receive the said (*name*) into your custody, together with this warrant and

him safely to keep in the said Jail for the said period of (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Police officer in charge of the Police-station at

[illegible]

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Superintendent (or Keeper) of the Civil Jail at

[illegible] the day of 18 , [illegible]

of India, the sum of rupees , and show cause why the said sum should [illegible] payment thereof cannot be enforced by [illegible] has been made for the imprisonment of [illegible] (*term of imprisonment*); [illegible] ceive the [illegible] ep in the [illegible] with an [illegible]

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

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him safely to keep in the said Jail for the said period of (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

LII —WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514*)

To the Police officer in charge of the Police station at

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal*) (*Signature*)

LIII —WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(*See section 514*)

To the Superintendent (*or* Keeper) of the Civil Jail at

did, on the day of 18 , for the good behaviour of (*name, etc* ,

of India, the sum of rupees , and

, to receive the to keep in the arrant with an

Given under my hand and the seal of the Court this day of 18 .

(*Seal*) (*Signature*)

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